6-1-88
Vol. 53 No. 105
Pages 19879–20088

Federal Register

Wednesday
June 1, 1988

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, Kansas City, MO, and New York City and Sparkill, 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 6 months in microfiche form, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

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

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

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

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

Single copies/back copies:

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

FEDERAL AGENCIES

Subscriptions:

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

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

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 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.

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: 1–800–392–7711
Kansas: 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.

SPARKILL, NY

WHEN: June 14; at 9:30 a.m.
WHERE: Lougheed Library,
St. Thomas Aquinas College,
Route 340,
Sparkill, NY
RESERVATIONS: Call Olive Ann Tamborelle, 914–359–9500, ext. 291

WASHINGTON, DC

WHEN: June 16; at 9:00 a.m.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC
RESERVATIONS: Maxine Hill, 202–523–5229

Contents

Federal Register

Vol. 53, No. 105

Wednesday, June 1, 1988

Separate Parts In This Issue

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
987.....19879
989.....19880
1425.....19882
Proposed Rules:
1446.....19923
1944.....19924

8 CFR
274a.....20086

10 CFR
Proposed Rules:
50.....19930

12 CFR
606.....19884

16 CFR
444.....19893
Proposed Rules:
13.....19930

19 CFR
132.....19896
Proposed Rules:
177.....19933

24 CFR
201.....19897
203.....19897
234.....19897
885.....19899

30 CFR
904.....19903
Proposed Rules:
936.....19934

32 CFR
285.....19905

33 CFR
100.....19906

40 CFR
180.....19907
Proposed Rules:
228.....19934
763.....19945

41 CFR
Proposed Rules:
101-41.....19946

42 CFR
Proposed Rules:
435.....19950
440.....19950
441.....19950

44 CFR
64 (2 documents).....19907, 19909

45 CFR
Proposed Rules:
670.....19964

47 CFR
73 (6 documents).....19912, 19913
Proposed Rules:
73 (4 documents).....19964-19966

48 CFR
Proposed Rules:
215.....19966
252.....19966

49 CFR
30.....19914
Proposed Rules:
1002.....19969

50 CFR
23.....19919
672.....19921
Proposed Rules:
661.....19971

Rules and Regulations

Federal Register
Vol. 53, No. 105
Wednesday, June 1, 1988

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

Expenses and Assessment Rate for Marketing Order Covering Domestic Dates Produced or Packed in Riverside County, CA

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 987 for the 1988–89 crop year established for that order. The rule is needed for the committee to incur operating expenses during the 1988–89 crop year and to collect funds during that year to pay those expenses. This would facilitate program operations. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: October 1, 1988 through September 30, 1989 (§ 987.333).

FOR FURTHER INFORMATION CONTACT: George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–475–919.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 987 (7 CFR Part 987) regulating the handling of dates produced or packed in Riverside County, California. The 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 final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to the 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.

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

The assessment rate recommended by each committee is derived by dividing anticipated expenses by expected shipments of the commodity (e.g., pounds, tons, boxes, cartons, etc.). 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. Recommended budgets and rates of assessment are usually acted upon by the committee before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committees will have funds to pay their expenses.

The California Date Administrative Committee unanimously recommended 1988–89 crop year expenditures of $394,500 and an assessment rate of $1.30 per hundredweight of assessable dates shipped under M.O. 987. In comparison, 1987 fiscal year budgeted expenditures were $411,267 and the assessment rate was $1.30 per hundredweight.

The major expenditure item this year is $350,000 for continuation of the committee's market promotion program. A total $40,000 of this amount will be used to cover the salary and other expenses of the executive director hired to manage that program and the remaining $310,000 will be used to cover the cost of the promotion program. The industry is faced with a serious oversupply of product dates and the committee considers this program necessary to stimulate sales.

The rest of the anticipated expenditures are for program administration which are budgeted at about last year's amounts. Revenue for the 1988–89 season is expected to total $394,500. Such revenue consists of $390,000 in assessments based on shipments of 30,000,000 pounds of dates and $4,500 in interest.

The committee also unanimously recommended that any unexpended funds or excess assessments from the 1987–88 crop year be placed in its reserve. The committee expects any excess funds to be minimal and result in a reserve well within the maximum authorized under the order.

A proposed rule inviting comments on the California Date Administrative Committee's 1988–89 expenses and assessment rate was published in the **Federal Register** on May 5, 1988 (53 FR 16131). The comment period ended May 16, 1988. No comments were received.

While this action will 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 on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found that the budget of expenses and assessment rate are reasonable and will tend to effectuate the declared policy of the Act. Prompt approval is necessary so that the committee can finalize its 1988–89 promotion program. Programs of this sort require a substantial amount of lead time for planning.

List of Subjects in 7 CFR Part 987

Marketing agreements and orders, dates, California.

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

For the reasons set forth in the preamble, § 987.333 is added as follows:

1. The authority citation for 7 CFR Part 987 continues to read as follows:

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

2. New § 987.333, is added to read as follows:

(Note: This section will not appear in the Code of Federal Regulations):

§ 987.333 Expenses and assessment rate.

Expenses of $394,500 by the California Date Administrative Committee are authorized, and an assessment rate of $1.30 per hundredweight of assessable dates is established for the crop year ending September 30, 1989. Unexpended funds from the 1987–88 crop year may be carried over as a reserve.

Dated: May 26, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88–12269 Filed 5–31–88; 8:45 am]

BILLING CODE 3410–02–M

---

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for the 1987–88 Crop Year for Certain Varietal Types

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture is adopting without modification as a final rule, the provisions of an interim final rule which established final free and reserve percentages for Natural (sun-dried) Seedless, Dipped Seedless, and Oleate and Related Seedless raisins from California's 1987 raisin crop production. These percentages are intended to stabilize supplies and prices, and help counter the destabilizing effects of the burdensome oversupply situation facing the raisin industry. Raisins in the free percentage category may be shipped immediately to any market, while reserve raisins must be held by handlers in a reserve pool for the account of the Raisin Administrative Committee (Committee), the administrative agency responsible for local administration of the Federal marketing order regulating the handling of raisins produced from grapes grown in California. Under the order, reserve raisins may be: Sold at a later date by the Committee to handlers for free use; used in diversion programs; exported to authorized countries; carried over as a hedge against a short crop the following year; or disposed of in other outlets noncompetitive with those for free raisins.

EFFECTIVE DATES: August 1, 1987 through July 31, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5120.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 989 (7 CFR Part 989), as amended, regulating the handling of raisins produced from grapes 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 rule has been reviewed under Executive Order 12291 and Departmental Regulation No. 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 action 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 23 handlers of California raisins subject to regulation under the raisin marketing order, and approximately 5,000 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 of raisins may be classified as small entities.

The order prescribes procedures for computing trade demands and preliminary and final percentages that establish the amounts of raisins that can be marketed throughout the season. The regulations apply to all handlers of California raisins. While this action may restrict the amount of raisins that enter domestic markets, final free and reserve percentages are intended to lessen the impact of the projected oversupply situation facing the industry and promote stronger marketing conditions, thus stabilizing prices and supplies and improving grower returns. In addition to the quantity of raisins released under the preliminary percentages and to be released under the final percentages, the order specifies methods to make available additional raisins to handlers by authorizing sales of reserve pool raisins for use as free tonnage raisins under "10 plus 10" offers, export sales, and school lunch programs.

The U.S. Department of Agriculture's (Department) *Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders* specify that 110 percent of recent years' sales be made available to primary markets each season. This requirement is met by the establishment of these final percentages which release 100 percent of the computed trade demand for each varietal type, and the additional release of such raisins to handlers under "10 plus 10" offers. The "10 plus 10" offers are two simultaneous sales of reserve pool raisins which are made available to handlers each season. For each such offer, at least 10 percent of the prior year's shipments are made available for free use.

Pursuant to § 989.54(a), the Committee met on August 13, 1987, to review shipment data, inventory data, and other matters relating to the supply of raisins of all varietal types. The Committee computed a trade demand for each varietal type for which a free tonnage percentage might have been recommended using a formula prescribed in that paragraph. The trade demand is 90 percent of the prior year's shipments of free tonnage and reserve tonnage raisins sold for free use for each varietal type into all market outlets, adjusted by subtracting the carryin of each varietal type on August 1 of the current crop year and adding to the trade demand the desirable carryout for each varietal type at the end of that crop year. The order prescribes that the desirable carryout for the 1987–88 crop year shall be 60,000 tons for Natural Seedless and 1,500 tons for Dipped Seedless and Oleate and Related Seedless raisins. The carryin tonnages used for adjusting the trade demands were 91,854, 4,177, and 2,659 tons, respectively, for Natural (sun-dried) Seedless, Dipped Seedless, and Oleate and Related Seedless raisins.

In accordance with these provisions, the Committee computed and announced a trade demand of 236,105 tons for Natural (sun-dried) Seedless raisins, 4,501 tons for Dipped Seedless raisins, 994 tons for Oleate and Related Seedless raisins, 12,983 tons for Golden Seedless raisins, 439 tons for Sultanas, −69 tons for Muscat raisins, 3,489 tons for Zante Currant raisins, and 1,210 tons for Monukka raisins.

As required under § 989.54(b), the Committee met on October 5, 1987, and computed and announced preliminary crop estimates and preliminary free and reserve percentages for: Natural (sun-dried) Seedless of 320,836 tons and 48 percent free, 52 percent reserve; Dipped Seedless of 5,531 tons and 53 percent free, 47 percent reserve; and Oleate and Related Seedless of 1,910 tons and 34 percent free, 66 percent reserve. Handlers operate under the preliminary percentages until the industry is able to obtain a more accurate estimate of the raisin production for that year. The field price for all three varietal types had been established. Hence, in accordance with § 989.54(b), the preliminary free and reserve percentages computed and announced by the Committee for the three varietal types released 85 percent of each varietal type's computed trade demand. Preliminary percentages were not announced for the other varietal types; therefore, the total available supply was released for each.

Pursuant to § 989.54(c), the Committee may adopt interim free and reserve percentages. Interim percentages may release up to 99 percent of the computed trade demand for each varietal type for which preliminary percentages have been computed and announced. On November 30, 1987, for Oleate and Related Seedless raisins, interim percentages of 90 percent free and 10 percent reserve were adopted. Interim percentages for Natural (sun-dried) Seedless of 66 percent free and 34 percent reserve and for Dipped Seedless of 72 percent free and 28 percent reserve, were computed and announced on January 21, 1988, when final percentages were recommended. The interim percentages for Natural (sun-dried) Seedless and Dipped Seedless released 99 percent of their computed trade demands, while for Oleate and Related Seedless raisins 97 percent of the trade demand was released.

Under § 989.54(d) of the order, the Committee is required to recommend to the Secretary, no later than February 15 of each crop year, final free and reserve percentages which, when applied to the final production estimate of a varietal type, will tend to release the full trade demand for any varietal type for which preliminary or interim percentages have been computed and announced. At that time, the Committee has more information available, including the final crop estimate and other information, on which to base the determination of final free and reserve percentages.

On January 21, 1988, the Committee met and recommended final free and reserve percentages for the 1987–88 crop year and made its final production estimates for Natural (sun-dried) Seedless, Dipped Seedless, and Oleate and Related Seedless raisins.

The Committee's final estimate of 1987–88 production of Natural (sun-dried) Seedless raisins totaled 350,630 tons, which included the 1987 diversion tonnage of 30,000 tons (29,794 tons more than its preliminary estimate). Dividing the computed trade demand of 236,105 tons by the final estimate of production resulted in a final free percentage of 67.33 percent. The Committee rounded that percentage to 67 percent which resulted in a final reserve percentage of 33 percent.

For Dipped Seedless raisins, the Committee's final estimate of 1987–88 production totaled 6,150 tons (619 tons more than its preliminary estimate). Dividing the computed trade demand of 4,501 tons by the final estimate of production resulted in a final free percentage of 73.18 percent. The Committee rounded that percentage to 73 percent which resulted in a final reserve percentage of 27 percent.

For Oleate and Related Seedless raisins, the Committee's final estimate of 1987–88 production totaled 1,071 tons (839 tons less than its preliminary estimate). Dividing the computed trade demand of 994 tons by the final production estimate resulted in a free percentage of 92.81 percent. The Committee rounded that percentage to 93 percent which resulted in a final reserve percentage of 7 percent.

An interim final rule establishing these percentages was issued on March 18, 1988, and was published in the **Federal Register** on March 23, 1988 (53 FR 9429). Comments were solicited from interested persons through April 22, 1988. No comments were received. Thus, the percentages as established by that interim final rule are adopted without change.

Based on available information, 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 all relevant information presented, including the Committee's recommendations, and other information, it is found that this regulation, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The relevant provisions of this part require that the percentages designated herein for the 1987–88 crop year apply to all Natural (sun-dried) Seedless, Dipped Seedless and Oleate and Related Seedless raisins acquired from the beginning of that crop year; (2) handlers are currently marketing 1987–88 crop raisins of these varietal types and this action must be taken promptly to achieve its purpose of making the full trade demand quantities computed by the Committee for these varietal types available to handlers; (3) an interim final rule established these final percentages which are being adopted by the Department without change; and (4) handlers are aware of this action which was recommended by the Committee at an open meeting and need no additional time to comply with these percentages.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Grapes, Raisins, and California.

For the reasons set forth in the preamble, the following action pertaining to 7 CFR Part 989 is taken:

Note.—This section will not appear in the Code of Federal Regulations.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 989 continues to read as follows:

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

§ 989.240 [Amended]

2. Accordingly, the interim final rule adding § 989.240, which was published at 53 FR 9429 on March 23, 1988, is adopted as a final rule without change.

Dated: May 26, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88–12268 Filed 5–31–88; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1425

Cooperative Marketing Associations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The proposed rule published in the **Federal Register** on March 8, 1988 (53 FR 7370), amending the regulations at 7 CFR Part 1425 is adopted as a final rule without change. The proposed amendment: (1) Allowed producers to place commodities in a pool of eligible commodities which may then be pledged by a cooperative as collateral for a Commodity Credit Corporation (CCC) price support loan without the cooperative being required to distribute the loan proceeds within 15 days of their receipt, if the commodities are redeemed within 15 days of such date; and (2) deleted a repetitive provision found at 7 CFR 1425.19.

EFFECTIVE DATE: May 31, 1988.

FOR FURTHER INFORMATION CONTACT: Richard M. Ackley, Head, Cooperative & Analysis Section, Price Support Branch, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013, (202) 447–6689.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under U.S. Department of Agriculture (USDA) procedures established in accordance with provisions of Departmental Memorandum 1512–1 and Executive Order 12291, and has been classified "not major." It has been determined that these program provisions will not 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 governments 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.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, no Environmental Assessment or Environmental Impact Statement is needed.

The title and number of the Federal Domestic Assistance Program to which this proposal rule applies are: Title—Commodity Loans and Purchases: Number 10.051; as found in the Catalog of Federal Domestic Assistance. This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1993).

Proposed Rule: A rule proposing to amend the regulations found at 7 CFR Part 1425 was published in the **Federal Register** on March 8, 1988, at 53 FR 7370. The proposed rule provided for a 30-day comment period.

Background: The regulations at 7 CFR 1425.16(b)(1)(iii) currently provide that a cooperative must exclude commodities delivered by members for marketing from a pool of commodities which are eligible to be pledged as collateral for price support loans until the members delivering such commodities agree to accept an initial payment from the cooperative with respect to such commodities. Because of tax considerations, cooperative members delivering such commodities frequently want to defer the receipt of initial payments until the next tax year. Cooperatives receiving such commodities from their members held the commodity in an ineligible pool until the members agreed to accept the initial payment normally after the first day of the next tax year.

On October 13, 1987, the Internal Revenue Service (IRS) issued Revenue Ruling 87–103 which provides that a producer who receives a CCC price support loan in a year and uses a commodity certificate to obtain the grain which had been pledged as collateral for the loan in the same year shall recognize as income in that year the amount by which the value of the loan exceeds the amount of the certificates which are used in the exchange. When the commodity is sold, the producer recognizes the gain for the full amount received on the sale of the commodity. Accordingly, under the IRS ruling, individual producers are permitted to pledge commodities as collateral for a CCC price support loan and immediately obtain such commodities through the exchange of such certificates and defer the income from the sale of the commodity for tax purposes until the next tax year. Cooperatives with members delivering a commodity on which they wished to defer the income until the next tax year were unable to utilize the certificates in the same manner as individual producers.

Also, the CCC regulations at 7 CFR 1425.17(a) currently provide that net loan proceeds, less authorized charges, must be distributed to eligible pool members within 15 days from the receipt of such loan proceeds from CCC. Provisions of the Food Security Act of 1985 amended the Agricultural Act of 1949 with respect to the CCC price support program to allow producers, including cooperatives which obtain price support on behalf of their members, to pledge eligible commodities as collateral for a CCC loan and redeem the commodity at an announced rate that has been less than the original loan rate. Prior to the enactment of these provisions, cooperatives did not normally pledge all of these commodities as collateral for CCC price support loans because of processing and marketing commitments. Since cooperatives now frequently pledge all of their eligible commodities for such CCC loans, the requirement that net loan proceeds less authorized charges must be distributed to eligible pool members within 15 days of receipt forces cooperatives to borrow additional funds for longer periods in order to meet the 15-day requirement. However, individual producers may use the loan funds received when the commodity was pledged as collateral for loan redemption purposes which are associated with the exchange of commodity certificates.

General Summary of Comments: Written comments were received with respect to the proposed rule from the following: (1) A honey marketing cooperative; (2) an association of cooperatives; (3) a honey dealer association; (4) an individual honey producer-dealer; (5) an association of individual honey producers; (6) six individual honey dealers and (7) three written comments from the counsel for the honey dealer association. In addition, an April 7, 1988, meeting of honey producers, dealers and their counsel was held with U.S. Department of Agriculture officials. A summary of comments received and responses follows:

1. Extension of comment period. The honey dealer association, its counsel and other persons attending the April 7 meeting, requested an extension of the comment period. The honey dealer association's counsel felt an extension of the comment period was needed since there did not appear to be any written documents to form a basis for the proposed rule. In addition, two individual honey dealers felt an

extension of the comment period was needed to reconsider the proposed rule.

The 30 day period form March 8, 1988 to April 6, 1988, provided adequate time for the preparation of comments by all interested parties on the proposed rule. Accordingly, the length of the comment period will not be extended.

2. Marketing flexibility. The honey producer-dealer and four honey dealers were concerned that cooperative marketing associations would have an unfair advantage in the market place because of "interest-free loans." Lower interest costs could result from a cooperative's coordination of its processing requirements with the redemption of the commodity pledged as collateral for a CCC price support loan. Also, these commenters expressed concern that the difference between the loan amount and the loan repayment amount could be used to finance the cooperative's operations.

One of the six individual honey dealers felt that competition and equitable program administration benefits the entire industry. The honey dealer believed the proposed rule would be unfair to other producers and packers.

The counsel for the honey dealer association also stated that the proposed change would only benefit a few producers large enough to take advantage of tax deferral benefits that the proposal makes possible.

The honey marketing cooperative and the association of cooperatives stated that the proposed rule would be more consistent in the treatment of members of the cooperative and individual producers. Under honey and some other price support programs utilizing marketing loan procedures, individual producers can now pledge commodities as collateral for price support loans and redeem such commodities at a lower rate by using the loan proceeds without having to borrow funds from other sources. By cooperatives not having to distribute loan proceeds if the loan is redeemed within 15 days, the cooperative member would have the same marketing flexibility as the individual producer.

The honey marketing cooperative also supported the adoption of the proposed rule for the following reasons:

(a) The proposed rule will promote the 1985 Food Security Act's purpose of maintaining the competitiveness of honey in domestic and export markets and reducing the cost incurred by the federal government in storing honey;

(b) The proposed rule will make the loan eligibility requirement aspects of the honey price support program more consistent with the purposes of the present marketing loan provisions of the honey price support program; and

(c) The proposed rule is reflective of industry practice and in accord with the wishes of the association's producer-members, as reflected in present contractual agreements between the association and its producer-members.

The association of individual honey producers stated that the implementation of the proposed rule would simplify the procedures necessary for cooperatives to participate in CCC price support programs. The association also noted that it would be much easier for a cooperative to participate in such programs and individual cooperative members have endorsed the proposed rule. In a subsequent comment, the association wanted to rescind this comment and be considered as having made no comment.

The amendments to 7 CFR 1425.16 and 1425.17 will give cooperative marketing associations the same flexibility as individual producers with respect to the pledging of eligible commodities as collateral for a CCC price support loan. Accordingly, these provisions are adopted without change.

3. Competitiveness in the industry. The individual honey producer-dealer stated that, with today's keen competition in the industry, even the smallest advantage, such as the actions which would be permissible under the proposed rule, would be unfair to the cooperative's competitors. The producer-dealer believes that a cooperative could obtain a loan with respect to one of its member's production and use those funds to finance the cooperative's operations while the member would be paid at some later date.

The counsel for the honey dealer association believed the proposed rule would give the honey cooperative the unrestricted use of interest free money from the producer's loan proceeds to finance its operations. The counsel also stated that this would provide a discriminatory competitive advantage for the cooperative. Because of these impacts and recent changes by the cooperative in its relationship with honey producers, the counsel felt that honey should be excluded from any changes to 7 CFR Part 1425.

Producers have the option of delivering their commodity to marketing cooperatives or to their competitors in the industry. If the producer decides to deliver the commodity to a cooperative, the regulations at 7 CFR 1425.13 require the cooperative to have a uniform marketing agreement with each of its members who delivers a commodity to an eligible pool. The regulations at 7 CFR 1425.17(b) provide that all pool proceeds must be distributed to eligible pool participants. Any savings resulting from a reduced need to borrow funds would be passed on to eligible pool members similar to the benefit that individual producers now have. Accordingly, all members of the cooperative would be treated equitably. While the actions which would be permissible under the rule may provide greater marketing opportunities to cooperative members, such actions will provide producers who are members of a cooperative marketing association the same marketing flexibility as non-members. Accordingly, the rule will be adopted as a final rule without change.

Accordingly, the regulations at 7 CFR Part 1425 are amended as follows:

PART 1425—[AMENDED]

1. The authority citation for 7 CFR Part 1425—Cooperative Marketing Associations is revised to read as follows:

Authority: 15 U.S.C. 714b, 714c, and 714j; 7 U.S.C. 1444(a), 1441, 1446d, 1447, 1421(a).

2. 7 CFR 1425.16(b)(1)(iii) is revised to read as follows:

§ 1425.16 Eligible commodity and pooling.

* * * * *

(b) *Eligible pool.* * * *

(iii) Except with respect to a quantity of a commodity pledged as collateral for a price support loan and which is redeemed within 15 days from the date the cooperative receives the proceeds from CCC, all of the commodity placed in such pool was delivered by members who have agreed to accept a payment of the initial advances made available to such producers by the cooperative with respect to such commodity in accordance with § 1425.17(a).

* * * * *

3. 7 CFR 1425.17(a)(1) is revised to read as follows:

§ 1425.17 Distribution of proceeds.

(a) *CCC loans and purchases.* (1) If CCC makes available price support loans or purchases with respect to any quantity of the eligible commodity in a pool, the proceeds from such loans or purchases shall be distributed to members participating in such pool on the basis of the quantity and quality of the commodity delivered by each member which is included in the pool less any authorized charges for services performed or paid by the cooperative which are necessary to condition the commodity or otherwise make the commodity eligible for price support. Except with respect to commodities which are pledged as collateral for a

price support loan and which are redeemed within 15 days from the date the cooperative receives the loan proceeds from CCC, such proceeds shall be distributed within 15 days from such date.

* * * * *

§ 1425.19 [Amended]

4. 7 CFR 1425.19(c) is removed.

Signed at Washington, DC on May 25, 1988.

Milt Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 88-12256 Filed 5-31-88; 8:45 am]

BILLING CODE 3410-05-M

FARM CREDIT ADMINISTRATION

12 CFR Part 606

Enforcement of Nondiscrimination on the Basis of Handicap

AGENCY: Farm Credit Administration.

ACTION: Final Rule.

SUMMARY: The Farm Credit Administration Board (Board) adopts final regulations prohibiting discrimination on the basis of handicap in programs and activities conducted by the Farm Credit Administration (FCA or agency). These regulations provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to the programs and activities conducted by the FCA.

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

FOR FURTHER INFORMATION CONTACT: Nancy E. Lynch, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: On December 18, 1985, the Farm Credit Administration published a notice of proposed rulemaking (50 FR 51540) for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended. The prohibitions against discrimination on the basis of handicap contained in the proposed regulation applied only to those Farm Credit Administration programs and activities which are available to members of the general public. The proposed regulations also stated that the Farm Credit Administration did not have to take any action to accommodate individuals with handicaps if such action would result in a fundamental alteration in the nature of the program or activity or in undue financial and administrative costs. The deadline for receiving comments on the proposed regulation was February 17, 1986. Five comments were received in response to the notice, three from organizations representing handicapped persons and two from other Federal entities, the Department of Justice and the Equal Employment Opportunity Commission (EEOC). In general, one commenter expressed disappointment that the agency proposed an adaptation of the prototype regulation prepared by the Department of Justice. The Board has determined that FCA's programs and activities do not require unique regulatory language and that these regulations are, therefore, appropriate for FCA. The commenters objected to the limitation of the application of the proposed regulations to only those programs and activities in which the general public participates and to the use of the fundamental alteration and undue burdens defenses in areas which they argued are inappropriate. A complete analysis of the comments and of the changes made to the proposed regulation is provided below.

The Board has determined that these regulations are not a major rule within the meaning of Executive Order 12291, and therefore a regulatory impact analysis has not been prepared. One commenter expressed the belief that small entities should comply with the rule because of their substantial number and the fact that they do affect a considerable number of individuals. The Board notes that the Regulatory Flexibility Act (5 U.S.C. 601-612) requires that an agency must undertake certain analyses of proposed rules which may have an impact on small business entities and disclose the results of such analyses in its notice of proposed rulemaking. Because these regulations regarding nondiscrimination on the basis of handicap are applicable solely to the programs and activities of the Farm Credit Administration, the Board has again determined these regulations do not impact on small business entities and are, therefore, not subject to the Regulatory Flexibility Act.

Section-by-Section Analysis and Response to Comments

Section 606.601 Purpose.

This section describes the general purpose of the regulation which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973, to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service. No comments were made to the regulation and it is unchanged.

Section 606.602 Application.

In the proposed regulation this section stated that Part 606 applies to all programs or activities conducted by the Farm Credit Administration which are available to members of the general public but listed the "programs and activities" which constitute the "programs and activities" of the FCA for purposes of the regulation.

One commenter to the regulation stated that the FCA erroneously excluded "the regulation, supervision, and examination of Farm Credit System institutions" from this regulation. The commenter believed that these FCA functions not only constitute an FCA program or activity but also will likely involve contact with the public, and that the regulation should be amended accordingly. In addition, it objected to the assertion in the regulation that the programs and activities listed therein constitute the sole "programs and activities of the FCA," as being far too narrow. It recommended that the regulation be amended to describe the list of "programs and activities" as illustrative only and not exhaustive. The proposed section also provides that the institutions of the Farm Credit System (System), which are supervised, regulated, and examined by the FCA, are not governed by this regulation. The commenter agreed with this provision in the regulation.

The section has been modified in response to the comments received and now states that this rule applies to all activities and programs conducted by the FCA. Since this rule will most likely apply to the programs and activities which are open to the members of the general public, the final regulation retains the list of such programs and activities that was contained in the proposed rule to provide notice to interested persons. However, the regulation has been amended to provide that the list contains examples of such programs and activities of the FCA, and that an omission does not necessarily mean that the activity is not covered. The FCA has added language to paragraph (b) which specifically states that FCA personnel will comply with this part in their interaction with employees of System institutions and

employees of other Federal agencies during the discharge of their official FCA duties. The exclusion from coverage of System institutions that are regulated or examined by the FCA remains unchanged except that the word "supervised" has been deleted consistent with the Farm Credit Amendments Act of 1985 (Pub. L. 99–205).

Section 606.603 Definitions.

The regulation defines the significant terms used in Part 606. "Auxiliary aids" is defined to mean services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and benefit from the agency's activities, and provides examples of commonly used auxiliary aids. One commenter suggested that attendant services should be added to the "laundry list" of auxiliary aids appearing in the regulation. It was suggested that this would remove any confusion for those individuals required to comply with this regulation, since attendant services might be necessary to achieve program accessibility, even where all the requirements to accessibility have been met. Another commenter suggested that auxiliary aid should be expanded to include attendant services needed to aid severely disabled persons traveling during the course of their work. The FCA Board has declined to incorporate attendant services in the definition of "auxiliary aids" since such services are generally personal in nature and thus they are properly outside the scope of "auxiliary aids." Nevertheless, to the extent that attendant services are not personal in nature and are directly related to a program or activity of the FCA, such service may be provided when necessary. A wheelchair is considered a personal aid and has been excluded from this definition. However, FCA may choose to provide wheelchairs on occasion as a special benefit. This same commenter also stated that the term "auxiliary" implies something that is extra or discretionary and recommended that FCA change the section to "Aids for Reasonable Accommodation." This suggestion has not been adopted. The FCA Board believes the term "reasonable accommodation" is a term of art applicable to discrimination in employment under the Rehabilitation Act. The use of the term in Part 606 would be inappropriate and confusing, since Part 606 covers more than employment programs and activities.

One commenter suggested that the regulation should be amended to clarify that auxiliary aids are required in all aspects of the FCA programs and to remove any ambiguity that the FCA has an obligation to make programs accessible and overcome barriers that may not be related to communication. This suggestion has not been adopted as the FCA Board believes that the term "auxiliary aids" adequately indicates what is intended and what is required.

"Complete Complaint" is defined to include all the information necessary to enable the agency to investigate the complaint. The definition is necessary to enable the agency to determine the beginning of its obligations to investigate a complaint.

"Facility" is defined similar to that in the section 504 Coordination Regulation for Federally Assisted Programs (28 CFR 41.3(f)), except that certain inapplicable phrases have been deleted and the phrase "rolling stock or other conveyances" has been added. The definition does, however, apply to all programs and activities conducted by the agency regardless of whether the facility in which they are conducted is owned, leased, or used on some other basis by the agency. One commenter objected to the omission of the phrase "or interest in such property" from the definition of "facility." As used in this regulation, the term "facility" refers to structures, and does not include intangible property rights. The phrase has been omitted because the requirement that a facility be accessible would have no meaning if applied to such things as a lease, life estate, mortgage, etc. This definition has not changed.

"Individual with handicaps" is defined identical to the definition of "handicapped person" appearing in the section 504 Coordination Regulation for Federally Assisted Programs (28 CFR 41.31). Although section 103(d) of the Rehabilitation Act Amendments of 1986 changed the statutory term "handicapped individual" to "individual with handicaps," the legislative history of this amendment indicates that no substantive change was intended. Thus, although the term has been changed in this regulation to be consistent with the statue as amended, the definition is unchanged. In particular, although the term as revised refers to "handicaps" in the plural, it does not exclude persons who have only one handicap.

The definition of "qualified individual with handicaps" is the same as the definition of "qualified handicapped person" with respect to services appearing in the section 504 Coordination Regulation for Federally Assisted Programs (28 CFR 41.32(b)). The definition provides that a qualified individual with handicaps is an individual with handicaps who meets the essential eligibility requirements of participation in the program or activity. One commenter noted that the FCA had used the Department of Justice "Federally Assisted" guidelines as a model for its definition for "qualified handicapped individual." But the commenter stated that the FCA had not addressed the extent to which the agency must provide aids or accommodations to ensure that such person has equal opportunity to participate in and benefit from the program. The commenter questioned why the agency had omitted "reasonable accommodation" from the language in the definition. The commenter referred FCA to the regulations of the Federal Election Commission and to the Supreme Court decision in *Alexander v. Choate*, 469 U.S. 287 (1985) as support for its position that applicants for employment were to be provided reasonable accommodation. The FCA Board has determined that § 606.640 adequately addresses this commenter's concerns. However, the Board has amended the regulation to include a sentence that indicates that a qualified individual with handicaps with respect to employment is a qualified handicapped person as defined in 29 CFR 1613.702(f), which is made applicable to this part by § 606.640. The addition of this language does not change existing regulations applicable to employment.

"Section 504" means section 504 of the Rehabilitation Act of 1973, as amended. This definition has not been changed except that a reference to the 1986 Amendment has been added.

One commenter on a technical matter stated that the numbering used by the agency is not consistent with proper **Federal Register** format. This has been corrected in the final regulation.

Section 606.610 Self-evaluation.

The regulation provides that the agency shall conduct self-evaluation of its compliance with section 504 within one year of the effective date of the regulation. The regulation has been changed to eliminate references to consultation but provides that the self-evaluation process shall include an opportunity for interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the self-evaluation process and the development of transition plans by submitting comments (both oral and written).

One commenter welcomed the requirement that the agency maintain "a list of the interested persons consulted" in the performance of the self-evaluation. Experience has shown that self-evaluation is a valuable means of establishing a working relationship with individuals with handicaps that promotes both effective and efficient implementation of section 504. This final rule has been amended to utilize language that provides an opportunity for interested persons to participate in the process consistent with the Federal Advisory Committee Act (5 U.S.C. app.).

Section 606.611 Notice.

The regulation requires the agency to disseminate sufficient information to employees, applicants, participants, beneficiaries, and other interested persons to apprise them of rights and protections afforded by section 504. The regulation leaves to the agency the discretion to use whatever manner the agency finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this regulation.

One commenter suggested that notification of the FCA policy regarding nondiscrimination should also be included in the regulation and distributed in recruitment materials as well as in general information. The commenter also suggested that the FCA should make available to the persons enumerated in the regulation information regarding the provisions of this part and its applicability to the programs and activities of the FCA. Another commenter suggested the FCA amend the regulation to provide that the information "effectively" apprise persons of their rights and protections against discrimination. In this manner, the commenter believed the agency would be in a position to test the methods it selected to accomplish the purposes of notification.

The Board has not adopted these suggestions. In allowing the agency to have the flexibility to determine the best method by which information may be conveyed to various interested parties, the agency is in the best position to specifically target its audience to fully inform such persons of their protections against discrimination.

With respect to the suggestion of the inclusion of the term "effectively" in the regulation, the Board believes this is already addressed in the regulation. The regulation provides that information shall be made available to persons in the manner the agency finds necessary to apprise them of their rights. A method of communication that does not make this information available in an accessible form to individuals with handicaps would not comply with the regulation. The regulation has not been changed.

Section 606.630 General prohibitions against discrimination.

The regulation is an adaptation of the corresponding section of the section 504 Coordination Regulation for Federally Assisted Programs (28 CFR 41.51). Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in the regulation establish the general principles for analyzing whether any particular action of the agency violates the mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. If the agency violates a provision in any of the subsequent sections, it will also violate one of the general prohibitions found here. Where there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of individuals with handicaps. The agency may not refuse to provide an individual with handicaps with an equal opportunity to participate in or benefit from a program simply because the person is handicapped. The preamble to the proposed regulation states that such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled persons from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question. It would be permissible, therefore, to exclude without an individual evaluation all persons who are blind in both eyes from eligiblity for employment as an operator of an agency vehicle; but it may not be permissible to disqualify automatically all those who are blind in just one eye. Two commenters objected to the use of the irrebuttable presumption in applying the FCA regulations. One commenter believed such presumption is never justified, while the other commenter noted that the mere possession of a handicap is not permissible grounds for assuming an inability to function in a particular context. While the Board agrees that such a presumption would be valid only in extremely narrow circumstances, it does not agree that it may never be used. The Board believes that the agency may utilize the presumption in appropriate circumstances. Paragraph (b) also prohibits the agency from directly, or through other arrangements, undertaking actions the purpose or effect of which would be to discriminate against individuals with handicaps on the basis of their handicap or defeat or substantially impair a program or activity especially targeted at individuals with handicaps.

Paragraph (c) provides that the exclusion of nonhandicapped persons from the programs specially targeted at individuals with handicaps or the exclusion of a specific class of individuals with handicaps from a program targeted at another class of individuals with handicaps is not prohibited by this part.

Paragraph (d) states that the agency shall conduct its programs and activities in the most integrated setting, appropriate to the needs of qualified individuals with handicaps.

Two commenters objected to the FCA's omission of the section of the section 504 Coordination Regulation for Federally Assisted Programs, which would have prohibited the FCA from aiding or assisting an agency, organization, or person that discriminates on the basis of handicap in providing an aid, benefit, or service to the beneficiaries of the recipient's program. FCA does not provide such assistance and the Board has determined that including such language in this regulation would be inappropriate.

One commenter believed that the United States Supreme Court's decision in *Community Television of South California v. Gottfried*, 459 U.S. 498 (1983), permits Federal agencies, through their rulemaking procedures, to impose upon prospective licensees or certified entities a duty not to discriminate against individuals with handicaps. Section 504 does not, of itself, extend an agency's regulatory authority to the activities of entities subject to its regulation. Contrary to the assertion of the commenter, *Community Television* does not support the exercise of such authority, as the focus of the decision is on the underlying regulatory statute. The Court does not indicate that section 504 itself could serve as a source of such regulatory authority. Neither the Farm Credit Act of 1971, as amended, nor any other statute provides the FCA with a clear grant of statutory authority to enforce section 504 against the Farm Credit System institutions.

One commenter noted that construction of additional buildings at an existing site should not be excluded

from the coverage of this section. The Board has determined that such an inclusion would be redundant as § 606.650 addresses this issue.

A Federal agency commenter suggested inclusion of provisions regarding participation of a qualified individual with handicaps as a member of a planning or advisory board, and for not otherwise limiting a qualified individual with handicaps in the enjoyment of some right or privilege given to others receiving aid, benefit, or service from the agency. These two sections were inadvertently omitted from the proposed regulation and have been incorporated in the final version.

Section 606.640 Employment.

Section 640 prohibits discrimination on the basis of handicap in employment by the agency. Courts have held that section 504, as amended in 1978, covers the employment practices of Executive agencies. *Gardner v. Morris*, 752 F.2d 1271, 1277 (8th Cir. 1985); *Smith v. United States Postal Service*, 742 F.2d 257, 259–260 (6th Cir. 1984); *Prewitt v. United States Postal Service*, 662 F.2d 292, 302–04 (5th Cir. 1981); *Contra McGuiness v. United States Postal Service*, 744 F.2d 1318, 1320–21 (7th Cir. 1984); *Boyd v. United States Postal Service*, 752 F.2d 410, 413–14 (9th Cir. 1985).

Courts uniformly have held that in order to give effect to section 501 of the Rehabilitation Act, which covers Federal employment, the administrative procedures of section 501 must be followed in processing complaints of employment discrimination under section 504. *Smith*, 742 F.2d at 262; *Prewitt*, 662 F.2d at 304.

Accordingly, § 606.640 of this rule adopts the definitions, requirements, and procedures of section 501 as established in regulations of the EEOC at 29 CFR Part 1613. In addition to this section, § 606.670(b) specifies that the agency will use the existing EEOC procedures to resolve allegations of employment discrimination. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067, 3 CFR, 1978 Comp. p. 206. Under this authority, the EEOC established Governmentwide standards on nondiscrimination in employment on the basis of handicap.

Although one commenter argued that this section is too brief and weak and one commenter requested a list of examples of reasonable accommodations, the Board has adopted the EEOC's recommendation that to avoid duplicative, competing, or conflicting standards with respect to Federal employment, reference to the Governmentwide EEOC rules is sufficient. The final rule has not been changed except that a reference to the EEOC has been added.

Section 606.649 Program accessibility: Discrimination prohibited.

This regulation states the general nondiscrimination principle underlying the program accessibility requirements of §§ 606.650 and 606.651. No comments were received to the regulation and the regulation is unchanged.

Section 606.650 Program accessibility: Existing facilities.

The proposed regulation adopts the program accessibility concept found in the section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.57), with certain modifications. Thus, § 606.650 requires that each agency program or activity, when viewed in its entirety, be readily accessible to and usable by individuals with handicaps. The regulation also makes clear that the agency is not required to make each of its existing facilities accessible (§ 606.650(a)(1)). However, § 606.650, unlike 28 CFR 41.57, places explicit limits on the agency's obligation to ensure program accessibility (§ 606.650(a)(2)). The "undue financial and administrative burdens" language found at § 606.650(a)(2) is based on the Supreme Court's statement in *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412.

This interpretation is supported by the Supreme Court's decision in *Alexander v. Choate*, 469 U.S. 287 (1985). *Alexander* involved a challenge to the State of Tennessee's reduction of inpatient hospital care coverage under Medicaid from 20 to 14 days per year. Plaintiffs argued that this reduction violated section 504 because it had an adverse impact on handicapped persons. The Court assumed without deciding that section 504 reaches at least some conduct that has an unjustifiable disparate impact on handicapped people, but held that the reduction was not "the sort of disparate impact" discrimination that might be prohibited by section 504 or its implementing regulation. *Id.* at 299. *Alexander* supports the position, based on *Davis* and earlier lower court decisions, that in some situations, certain accommodations may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the accommodations is not discriminatory. Two commenters objected to the use of the fundamental alteration and undue financial and administrative burdens language in the regulation. One commenter stated that the agency is interpreting the *Davis* case too broadly. It suggested that the alteration and burdens language be deleted, and that "undue hardship" be utilized as more specific, less discriminatory, and a more positive term than "burden." The other commenters stated that by adopting this language the FCA has failed to parallel rules for federally assisted programs, contrary to the intent of Congress. It believed the agency's interpretation of the *Davis* case is inaccurate. It criticized the case law cited by the agency and stated that a number of more recent cases support the commenter's position.

In the alternative, two commenters suggested that, should the regulation contain the fundamental alteration and burdens language, the budget of the agency as a whole should be the standard for determining whether an accommodation is burdensome. They believed that, without this approach, every accommodation is likely to be unduly burdensome, and that as all of the resources of the agency are taxpayers' monies, none may be used to support discrimination. One commenter noted as support for its position that the Department of Labor adopted a similar regulation and suggested that the FCA pattern the regulation after the Department of Labor.

The Supreme Court in *Davis* was not explicit in specifying what constitutes an "undue burden." The Board notes that subsequent court decisions have not given equal weight to each factor and have focused on the total impact the requested modification would have on the program or activity in question. See, e.g., *Alexander v. Choate*, supra; *Dopico v. Goldschmidt*, 518 F. Supp. 1161 (S.D.N.Y. 1981) rev'd on other grounds, 687 F.2d (2d Cir. 1982), *American Public Transit Assn. v. Lewis*, 655 F.2d 1272 (D.C. Cir. 1981). However, the Board believes its interpretation of *Davis* is both proper and consistent with the lower courts' interpretation of *Davis*. The commenters cited no case law overturning *Davis* or other regulations which include the fundamental alteration or undue burdens language. The case law cited by the FCA remains valid. Accordingly, the Board rejects the suggestions of the commenters.

For the record, the Board wishes to emphasize that the agency is not funded by taxpayers' monies but rather the

agency is funded by assessments on the institutions of the Farm Credit System. An accommodation that results in an excessive financial burden on the agency, causing an increase in assessments to System institutions, could be challenged by those institutions. Accordingly, the Board believes that the fundamental alteration an undue burdens language is reasonable and necessary.

The Board does not agree with the commenter's suggestion that the relevant inquiry is whether there would be an undue hardship based on the resources of the agency as a whole. Were the agency to consider the entire budget, diverting funds from one program to another could result in the agency's being unable to carry out its statutorily mandated functions. The agency has a strong and vigorous commitment to section 504 and these regulations. The Board expects the agency to consider all reasonable approaches for providing accommodations to individuals with handicaps and expects that the agency will assert the undue burdens defense only where it is clear that no reasonable alternatives exist. The Board disagrees with the commenter's assertion that every accommodation is likely to be defined as unduly burdensome.

Section 606.650(b) sets forth the means by which program accessibility may be achieved and specifies that in choosing methods, the agency shall give priority to those methods that provide the most integrated setting appropriate. In the interest of effective and cost efficient accommodations, the Board has adopted the suggestion of one commenter that the agency provide an opportunity for the person to be accommodated to provide input regarding accommodations to be made. Sections 606.650(a)(2) and 606.660(d) of the regulation have been amended accordingly. Another commenter suggested that the agency have wheelchairs on hand to accommodate disabled, elderly, or weary persons. It is the agency's policy to maintain the necessary auxiliary aids to assist individuals with handicaps with whatever their disability may require. However, wheelchairs are considered a personal aid and not an auxiliary aid as defined in this regulation. Therefore, FCA has no obligation to provide this benefit but may choose to do so as a special service.

Paragraphs (c) and (d) establish time periods for complying with the accessibility requirements and state that aside from structural changes, all other necessary steps to achieve compliance shall be taken within 60 days. Where structural modifications are required, they shall be made as soon as practicable, but in no event later than 3 years after the effective date of the regulation. Paragraph (d) of the regulation has been amended to provide an opportunity for interested persons to participate consistent with the Federal Advisory Committee Act (5 U.S.C. app.).

Section 606.651 Program accessibility: New construction and alterations.

Section 606.651 provides that those buildings that are constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered to be readily accessible to and usable by individuals with handicaps in accordance with 41 CFR 101–19.600 to 101–19.607.

The proposed regulation adopts the existing Architectural Barriers Act (42 U.S.C. 4151–4157) standard for section 504 compliance, as applicable to agency buildings. As the buildings subject to this regulation would also be subject to the Architectural Barriers Act, adopting this standard will avoid duplicative and possibly inconsistent standards. However, existing buildings leased by the agency after the effective date of the regulation are not required to meet the new construction standard. It should be noted, however, that the requirement of § 606.650 do apply to such structures. Two commenters objected to excluding buildings leased by the FCA after the effective date of the regulation. One commenter stated that such buildings leased after August 7, 1984, the effective date of the Uniform Federal Accessibility Standards, should be required to meet the new construction standards. The other commenter stated that the decision in *Rose v. United States Postal Service*, 774 F.2d 1355 (9th Cir. 1985) held that leased buildings are required to meet the new construction standard. In addition, the commenter suggested that the final regulation should clarify the fact that leased buildings are require to comply with the Architectural Barriers Act. It notes that such clarification has already been made by 18 other agencies and that FCA action on this matter will both reflect and accepted practice and prevent confusion about the reach of the Architectural Barriers Act.

In *Rose v. United States Postal Service*, the Ninth circuit held that the Architectural Barriers Act requires accessibility at the time of lease. The *Rose* court did not address the issue of whether section 504 likewise requires accessibility as a condition of lease, and the case was remanded to the District Court for, among other things, consideration of that issue. The agency may provide more specific guidance on section 504 requirements for leased buildings after litigation is completed.

Section 606.660 Communications.

The regulation contains the standards by which the FCA will ensure effective communication with participants in its programs and activities. One commenter suggested that the FCA add a provision to the regulation that would require the agency to provide captioning on its flims and vedeotapes. The Board believes it is unnecessary to specify a particular manner of compliance with the regulation and has rejected this suggestion. One commenter reiterated its comments made to § 606.650 regarding the use of the fundamental alteration/undue burdens defenses by the FCA. For the reasons set forth in regard to § 606.650, the Board believes the retention of the language is appropriate and the regulation has not been changed.

Section 606.670 Compliance procedures

The regulation establishes a detailed complaint processing and review procedure for resolving allegations of discrimination in FCA's programs and activities in violation of section 504. One commenter recommended expanding this section to include (1) a provision for obtaining the expertise of the Architectural Barriers Compliance Board to help resolve deficiencies in construction or location of facilities; (2) a provision for judical review; (3) a provision to ensure that all other regulations, forms, and directives issued by the FCA are susperseded by the nondiscrimination requirements of this regulation; (4) a provision for the award of attorney's fees in administrative procedures; and (5) a provision for the availability of compensation to the prevailing party. The Board has not adopted these suggestion as they go beyond the requirements of section 504. The Board believes the existing provisions in the regulation fully protect the rights of individuals with handicaps and carry out both the letter and spirit of section 504.

One commenter noted the FCA proposed rules failed to inform complainants of the address to which complaints should be sent and recommended this be included in the final regulation. The regulation has been amended to include the address and to correct the title of the designated official.

Another suggestion related to the language in paragraph (e) of the

regulation which states that the agency shall make reasonable efforts in referring a complaint over which it does not have jurisdiction. The commenter stated that FCA's obligation to refer these complaints is absolute and recommended the agency adopt language similar to that contained in the Federal Election Commission's final regulation. The Board has not adopted this suggestion because the agency may not always be able to refer a complaint, e.g., when no Federal agency would have jurisdiction or insufficient information was provided.

One commenter requested that the FCA amend the regulation to provide notice to the complainant if a decision is made to dismiss the complaint without prejudice. The commenter also suggested that the FCA amend its regulations to provide that a complainant is able to pursue a private right of action in the courts without invoking the FCA's internal procedures, or after preliminary but not final findings have been issued by the FCA. The commenter was concerned that the existence of an administrative hearing process may result in the waiver of an individual complainant's right to have his or her action heard in court.

This commenter expressed concern that the regulation provide that any person be allowed to file on behalf of an individual or class of persons when the complainant has been subjected to discrimination. It was pointed out that this procedure may be necessary in the case of individuals with handicaps because, due to their disability, such persons may be unable to fully effectuate their rights. Having someone else file on their behalf would ensure that their rights are protected. The commenter also questioned the absence of any statement regarding the availability of compensatory damages to a complainant. The commenter believed it is very difficult for an agency employee or an applicant for benefits or services to successfully sue a Federal agency. It was argued that such compensatory relief would encourage agency compliance with the regulations and would result in the agency responding in a more expeditious manner to those complaints than the agency might otherwise. It believed there is no reason why the "make whole" philosophy in all compensatory relief situations should not apply to enforcement under these regulations.

With respect to the commenter's concern regarding the availability of a complainant's right to obtain direct judicial relief, the Board notes that the Administrative Procedures Act, 5 U.S.C. 554–557, provides a Federal court jurisdiction to review an agency's final decision. It is beyond the Board's jurisdiction to specify that a de novo review is available to complainants seeking judical review of final agency decisions. This issue is for the courts to decide. That is also true for the issue of availability of a private right of action, either without invoking FCA's compliance procedures or after issuance of letters of findings.

In response to the question of the commenter regarding who may file a complaint, the Board notes the definition of "complete complaint" and that the regulation provides that the agency is required to accept and investigate all complete complaints. The Board believes it is not necessary to amend the regulation in this regard. One commenter made the suggestion that the agency notify a complainant when a complaint is incomplete and provide an opportunity to remedy the defect. The Board believes that it is unnecessary to provide for this in the regulation as a rejection of the complaint as incomplete serves this purpose.

In a technical suggestion, a Federal agency commenter suggested that wording be inserted in paragraph (b) to clarify that the regulations governing the filing of employment-related complaints are those established by the EEOC. The regulation has been amended to include this reference.

List of Subjects in 12 CFR Part 606

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Chapter VI, Title 12, of the Code of Federal Regulations is amended by adding Part 606 as follows:

PART 606—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FARM CREDIT ADMINISTRATION

Sec.

Authority: 29 U.S.C. 794.

§ 606.601 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 606.602 Application.

(a) This part applies to all programs or activities conducted by the agency. For example, members of the public may participate in the following "programs and activities" of the FCA:

(1) Attending open meetings of the Farm Credit Board.

(2) Making inquiries or filing complaints.

(3) Using the FCA library in McLean, Virginia.

(4) Seeking employment with FCA.

(5) Attending any meeting, conference, seminar, or other program open to the public.

This list is illustrative only and failure to include an activity does not necessarily mean that it is not covered by this regulation.

(b) This regulation does not apply to the institutions that are regulated or examined by the FCA. However, this regulation governs the conduct of FCA personnel, in their interaction with employees of such institutions and employees of other Federal agencies, while discharging their official FCA duties.

§ 606.603 Definitions.

For purposes of this part, the term:

(a) "Agency" means the Farm Credit Administration.

(b) "Assistant Attorney General" means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

(c) "Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to

participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDDs), interpreters, note-takers, written materials, and other similar services and devices.

(d) "Complete complaint" means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

(e) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

(f) "Individual with handicaps" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) "Physical or mental impairment" includes:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) "Major life activities" includes functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one more major life activities.

(4) "Is regarded as having an impairment" means:

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (f)(1) of this definition but is treated by the agency as having such an impairment.

(g) "Qualified individual with handicaps" means an individual with handicaps who meets the essential eligibility requirements for participation in the program or activity conducted by the agency. With respect to employment, a qualified individual with handicaps is one who meets the definition of "qualified handicapped person" set forth in 29 CFR 1613.702(f), which is made applicable to this part by § 606.640 of this rule.

(h) "Section 504" means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516, 88 Stat. 1617); the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602, 92 Stat. 2955); and the Rehabilitation Act Amendments of 1986 (Pub. L. 99–506, 100 Stat. 1810).

§§ 606.604–606.609 [Reserved]

§ 606.610 Self-evaluation.

(a) The agency shall, within one year of the effective date of this part, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The agency shall, for at least three years following completion of the evaluation required under paragraph (a) of this section, maintain on file and make available for public inspection:

(1) A list of the interested persons who commented, with copies of comments received;

(2) A description of areas examined and any problems identified; and

(3) A description of any modifications made.

§ 606.611 Notice.

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the agency head finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this regulation.

§§ 606.612—606.629 [Reserved]

§ 606.630 General prohibitions against discrimination.

(a) No qualified individual with handicaps, on the basis of handicap, shall be excluded from participation in, be denied the benefits of, or otherwise, be subjected to discrimination under any program or activity of the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual or other arrangments, on the basis of handicap:

(i) Deny a qualified individual with handicaps the oportunity to participate in or benefit from the activity, aid, benefit, or service;

(ii) Afford a qualified individual with handicaps an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with handicaps with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to individuals with handicaps or to any class of individuals with handicaps than is provided to others unless such action is necessary to provide qualified individuals with handicaps with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified individual with handicaps the opportunity to participate

as a member of planning or advisory boards;

(vi) Otherwise limit a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified individual with handicaps the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs of activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would:

(i) Subject qualified individuals with handicaps to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would:

(i) Exclude individuals with handicaps from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to individuals with handicaps or the exclusion of a specific class of individuals with handicaps from a program limited by Federal statute or Executive order to a different class of individuals with handicaps is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

§§ 606.631–606.639 [Reserved]

§ 606.640 Employment.

No qualified individual with handicaps shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR Part 1613, shall apply to employment in the agency.

§§ 606.641–606.648 [Reserved]

§ 606.649 Program accessibility: Discrimination prohibited.

Except as otherwise provided in § 606.650, no qualified individual with handicaps shall, because the agency's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§ 606.650 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not:

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by individuals with handicaps;

(2) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with paragraph (a) of this section would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. In preparing the report, the agency shall make reasonable efforts to ensure that the person(s) to be accommodated has an opportunity to provide relevant information. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with handicaps receive the benefits and services of the program or activity.

(b) *Methods.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with handicaps. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified individuals with handicaps in the most integrated setting appropriate.

(c) *Time period for compliance.* The agency shall comply with the obligations established under this section within sixty days of the effective date of this part except that where structural changes in facilities are undertaken, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve accessibility, the agency shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The agency shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to individuals with handicaps;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section, and if the time period

of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period;

(4) Indicate the official responsible for implementation of the plan; and

(5) Identify the persons or groups who commented on the plan.

§ 606.651 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with handicaps. The definitions, requirements, and standards of the Architectural Barriers Act [42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§§ 606.652–606.659 [Reserved]

§ 606.660 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in and enjoy the benefits of a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the individual with handicaps.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDDs) or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with this section would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. In preparing the report, the agency shall make reasonable efforts to ensure that the person(s) to be accommodated has an opportunity to provide relevant information. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

§§ 606.661–606.669 [Reserved]

§ 606.670 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs and activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) Responsibility for implementation and operation of this section shall be vested in the Director, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate Government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended [42 U.S.C. 4151–4157), is not readily accessible to and usable by individuals with handicaps.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing:

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by this paragraph. The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Equal Employment Opportunity Manager, or his/her designee, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

(j) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency determines that additional information is needed from the complainant, he or she shall have 60 days from the date of receipt of the additional information to make his or her determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

§§ 606.671—606.999 [Reserved]

May 23, 1988.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 88–12201 Filed 5–31–88; 8:45 am]

BILLING CODE 6705–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 444

Trade Regulation Rule; Credit Practices; California

AGENCY: Federal Trade Commission.

ACTION: Exemption from Provision of Trade Regulation Rule on Credit Practices (16 CFR 444.3) granted to the State of California.

SUMMARY: The Federal Trade Commission hereby publishes its decision to grant the State of California an exemption from § 444.3 of the Commission's trade regulation rule on credit practices, 16 CFR Part 444 (1984) ("Credit Practices Rule" or "Rule") for all credit transactions subject to California law. The Commission has determined that the application by the State of California for exemption from § 444.3 of the Rule meets the standards for such exemptions as set out in § 444.5 of the Rule. The exemption will remain in effect for so long as state law continues to afford protection substantially equivalent to that provided by § 444.3 of the Rule and for so long as the state effectively administers and enforces its law.

EFFECTIVE DATE: June 1, 1988.

FOR FURTHER INFORMATION CONTACT: David G. Grimes, Jr., Division of Credit Protection, Practices, Bureau of Consumer Federal Trade Commission, Washington, DC 20580, (202) 326-3175.

SUPPLEMENTARY INFORMATION: Section 444.3 of the Credit Practices Rule states that it is a deceptive practice for a creditor in a transaction subject to the Rule [1] to misrepresent the nature or extent of cosigner liability to any person, and an unfair practice for such a creditor to obligate a cosigner without first informing that cosigner of the nature of his or her liability as a cosigner. The section further requires that a particular notice, prescribed therein, be given to each cosigner before the cosigner becomes obligated. A creditor who furnishes the prescribed notice does not violate the prohibition against unfair and deceptive practices concerning the cosigner's liability.

The Credit Practices Rule provides (at 16 CFR 444.5) that if a state applies for an exemption from a provision of the Rule, such exemption will be granted if the Commission determines that: (1) There is in effect a state requirement or prohibition that applies to any transaction to which a provision of the Credit Practices Rule applies; and (2) the state requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by the Rule's provision. Such an exemption will continue for so long as the state effectively administers and enforces its law. The result of the exemption is that the exempted provision of the Credit Practices Rule is not in effect in that state.

The State of California has filed a petition for exemption from § 444.3 of the Rule. California asserts that the California Civil Code and the California Business and Professions Code, and the State enforcement scheme meet the standards for exemption contained in the Rule. The request was published in the **Federal Register** for 60 days of public comment.[2]

After evaluating the request and the comments received, the Commission has determined to grant the exemption.

As set forth in § 444.5, the Commission evaluated, in the context of an exemption proceeding, the California petition for exemption to determine whether the level of protection to consumers under the state law is substantially equivalent to the protection afforded by the Credit Practices Rule and whether the state law is administered and enforced effectively. The exemption proceeding was conducted pursuant to section § 1.16 of the Commission's Rules of Practice.

As indicated in the Rule's Statement of Basis and Purpose, the requirement in § 444.5 that a comparable state requirement be "substantially equivalent" to the Commission's Rule provision does not, in the Commission's view, require that the state requirement mirror exactly the Rule provision. Any differences that exist, however, should be so minor as not to deprive consumers of the level of protection guaranteed by the Rule nor to complicate significantly compliance by interstate creditors. In determining whether an exemption is warranted, the Commission also considers factors such as the resources committeed by the state to enforce its provisions and the extent of private rights of action available to aggrieved consumers.

Contents of the California Submission

The Attorney General of the State of California provided copies of the relevant state statutes and a narrative statement comparing provisions of state law with § 444.3 of the Credit Practices Rule and explaining how state law and these Rule provisions would apply to the same transaction. The Attorney General also provided a discussion of the enforcement capabilities of state, county, and local prosecutors to assure compliance with the applicable provisions of California law. The application was signed by the Deputy Attorney General on behalf of the Attorney General, who has authority to enforce such law. By letter of July 28, 1987, the Deputy Attorney General submitted additional discussion and material for inclusion in the record, relating to the Rule's requirement that the cosigner notice be provided to individuals who cosign for their spouses.

Comments

The Bank of America and the California Bankers Association both submitted comments recommending that California's application be granted as requested. No other comments were submitted.

Provisions of California Law and Section 444.3 of the Rule

A. Summary of Provisions of California Law

The California Civil Code, section 1799.91, contains a requirement that a "Notice to Cosigner" be given to certain persons who enter into consumer credit contracts. Sections 1799.95 and 1799.99 provide that no action may be brought and no security interest enforced against any cosigner who is entitled to receive a cosigner notice and does not receive it, in connection with any consumer credit contract subject to the Code or any other transaction subject to § 444.3 of the Credit Practices Rule.

The California Business and Professions Code, section 17200, prohibits unfair competition, a term defined to include unlawful and unfair business practices, as well as unfair or deceptive advertising. Actions for injunctions and civil penalties are provided for in sections 17204 and 17206. Section 17500 prohibits false or misleading statements and sections 17535 and 17536 provide for injunctive relief and civil penalties.

[1] The Federal Trade Commission does not have jurisdiction over banks or federally-chartered or insured savings and loan associations, so transactions by those creditors are not subject to the Rule. However, the Federal Reserve Board and the Federal Home Loan Bank Board have adopted substantially similar rules for those institutions. These rules became effective January 1, 1986. The FRB's rule and the FHLBB's rule may be found at 50 FR 11695 (April 29, 1985) and 50 FR 19325 (May 8, 1985), respectively. The State of California has requested an exemption from those rules as well.

[2] 51 FR 30675, August 29, 1986.

B. Comparison of Cosigner Notice Requirements

Section 1799.91 of the California Civil Code requires that each "creditor" who obtains the signature of more than one person on a transaction subject to § 444.3 of the Credit Practices Rule deliver a notice that is identical to the text of the notice contained in § 444.3(c) of the Credit Practices Rule [3] to each person unless the persons are married to each other or unless each person in fact receives any of the money, property, or services that are the subject of the transaction.

1. Parties Required To Give the Notice

The California Civil Code requires that the notice be given by each "creditor," defined as any person or entity who enters into or arranges for consumer credit contracts (including lease purchase arrangements), "in the ordinary course of business." The Credit Practices Rule applies to any "lender" and any "retail installment seller," as defined in § 444.1(a) and 444.1(b), respectively, within the Commission's jurisdiction.[4] California states that its law covers the same parties that the Rule covers. In maintains further that the term "consumer credit contract" under California law includes all of the retail installment sales and virtually all of the loans covered by the Rule.

The Commission agrees with the conclusion of the California Attorney General that the parties (*i.e.*, lenders and retail installment sellers) required to give the Rule's notice are also covered by California law. Although the term "retail installment seller" (as defined in § 444.1(b)) does not have the "in the ordinary course of business" limitation that specifically narrows the definition of "creditor" under the California Civil Code, the Commission considers this difference to be of no significance.

The Commission also agrees with the California Attorney General's view that the term "consumer creit contract" (as defined in § 1799.90(a) of the California Civil Code) includes all of the retail installment sales and virtually all of the loans covered under the Rule's cosigner provision. Moreover, as noted by the California Attorney General, § 1799.99 of the California Civil Code mandates that the California cosigner notice be given for all transactions covered by the Rule, unless the persons signing the credit obligation are married to each other. Accordingly, the Commission concludes that California law requires that its cosigner notice be given by the same parties and in connection with the same types of transactions [5] as does the Rule.

2. Inclusion of the California Notice in the Contract

The Rule requires that the cosigner notice be on a separate document but there is no type size requirement. California law requires that the notice be placed either on a separate document or on the contact or other document establising the cosigner's liability in at least 10-point type. California notes that the Commission's stated purpose (at 49 FR 7778) for requiring that the notice be given on a separate document is to assure that the cosigner will actually be aware of the notice before becoming obligated. California contends that its law meets this objective by requiring that any cosigner notice not actually on a separate document be placed on the document that contractually obligates the cosigner and must appear in a box with a bold border immediately above the signature line or immediately above or adjacent to other statutorily required notices. California maintains that the notice will not be lost in the verbiage of the contract because the notice must appear on the side of the contract that has the signature line.

California law also contains the express requirement, not in the Rule, that the cosigner receive a copy of the cosigner notice. California law prohibits obtaining a cosigner's signature on a contract containing blank spaces to be filled in later and requires that each person entitled to the cosigner notice also receive a copy of the debt instrument and any security agreement or deed of trust evidencing the consumer credit contract.

The Commission has concluded that the provision of California law permitting placement of the California notice in the contract provides protection that is equivalent to that provided by the Rule. The requirements that the California notice be in at least 10-point type, and that any notice included in a contract be placed on the document establishing liability on the page with the signature space, in a box with a bold border, assures that the cosigner will actually be aware of the notice before becoming obligated.

3. Provision of the Notice to Spouses

The Rule requirement that the cosigner notice be given to cosigners includes spouses who are cosigners. California law excludes spouses. The Commission has concluded, however, for reasons cited below, that California law affords consumers protection that is substantially equivalent to that afforded by the Rule, notwithstanding the fact that spouses are not entitled to the California cosigner notice.

California argues persuasively that, under its law, spouses would rarely be cosigners within the meaning of the Rule. California also contends that the Rule notice misleads spouses concerning the liability of their community property under California's marital property law and that it would be impractical to modify it.[6] California believes that a modified notice, even if accurate, would be ineffective because of its complexity and that such a notice would rarely be of value to spouses.

The Commission has concluded that California law offers protection that is substantially similar to that afforded by the Rule because, under California law, a spouse could almost never become a cosigner within the meaning of the Rule. Although the Rule includes spouses as cosigners in order to comply with the ECOA's requirement that spouses be treated no less favorably than other cosigners, the Commission does not believe that granting the California petition for exemption will lead to violations of the ECOA, but believes that California's exclusion of spouses from the definition of cosigner would result in few, if any, cosigners being deprived of the protection of the Rule.

California is a community property state. Under California's community property law, the proceeds of a

[3] The text of the cosigner notice is as follows:

Notice to Cosigner

You are being asked to guarantee this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount.

The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used aginst the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become a part of your credit record.

This notice is not the contract that makes you liable for the debt.

[4] Under the Rule, the term "lender" (§ 444.1[a]) denotes one who engages "in the business" of lending money to consumers, and the term "retail installment seller" (§ 444.1(b)) denotes one who sells goods or services to consumers on a deferred payment basis or pursuant to a lease-purchase arrangement.

[5] But see discussion of "Provision of the Notice to Spouses," *infra*.

[6] California argues that the cosigner notice may mislead a married person to believe he or she will not be liable for his or her spouse's debt unless the person signs the obligation.

transaction subject to the Rule involving spouses will almost always be community property. The California Bankers Association has stated that, in a joint management and control community property state such as California, each spouse, by definition, receives the benefit of goods purchased by, or money lent to, the other. The California Attorney General has also noted that all real property in California and all personal property acquired by either spouse during marriage is community property, citing Civil Code Section 5110.[7] Under California law, money or property acquired by either spouse on the credit of community property or the personal credit of either spouse is presumed to be community property.[8]

To be a cosigner under the Rule, a spouse must become liable for the debt of another person "without compensation." A person (such as a joint applicant) who benefits from the transaction cannot be a cosigner. Thus, a spouse in California whose signature is required in a transaction subject to the Rule will generally not be a cosigner under the Rule. The spouse will have received "compensation" as a result of the transaction because the proceeds of the transaction are generally community property under California law. Community property benefits both spouses because it is available under California law (Civil Code § 5120.110(a)) to satisfy debts incurred by either spouse before or during marriage, regardless of whether one or both spouses are parties to the debt, and regardless of which spouse has management and control of the property. As California points out in its supplemental submission, both spouses are legally entitled to enjoy, use, manage, and control community property (see Civil Code section 5125). Accordingly, neither can be a "cosigner" for the other under § 444.1(k) of the Rule in California.

Another issue concerns credit transactions where the immediate proceeds are services (as contrasted with property, such as money or goods) directed solely to one spouse; these "proceeds" may not be community property under California law. Compensaion for the cosigner spouse as a result of the transaction, therefore, is less apparent. What benefits one spouse, however, almost always benefits the community under California law. Moreover, no cosigner notice would be required under the Rule, in light of California law, where the services (or goods) that are the proceeds of the transaction constitute the "necessaries of life" for one spouse. Under California law, both spouses are liable for a debt for necessaries, and the separate property of either may be applied to the satisfaction of the debt (Civil Code § 5120.140). Therefore, both spouses would benefit if the proceeds of a loan were used to obtain them. Again, spouses wo receive compensation cannot be cosigners under the Rule.

A final circumstance in which the spouse might not receive compensation from the transaction occurs when the applicant is relying wholly on separate property to repay the obligation. In such a situation, the proceeds would not be community property. However, it appears that such transactions are rare. The California Attorney General believes that most married persons' assets and earnings in California consist largely or entirely of community property. The Commission staff has concluded that extremely few transactions of this sort are likely to occur.

Providing the Rule's cosigner notice to spouses in California may also be misleading since it is doubtful the notice could be modified to reflect state law without substantially reducing its effectiveness. The Commission concurs with California's assertion that the Rule notice is not an accurate statement of a married person's liability for his or her spouse's debts under California law. As noted above, under California law, a married California resident's share of community property is liable for the debts of the resident's spouse, regardless of whether the resident is a cosigner; the resident is also personally liable for debts of the resident's spouse for the necessaries of life. California contends that the Rule's cosigner notice implies falsely that a person solicited to cosign a debt can avoid all liability for the debt by refusing to cosign.[9] California maintains that a married person cannot avoid all liability for his or her spouse's debts by refusing to cosign if some (or all) of the person's property is community property. That property will be liable for the debts of that person's spouse, regardless of whether the person becomes a cosigner. California's argument casts doubt upon the utility of the cosigner notice, suggesting that it would be of little, if any, benefit to spouses.

In sum, because most spouses in California will not be cosigners under the Rule and, therefore, will not be entitled to the Rule's notice, the fact that California law excludes spouses is of no consequence insofar as California's exemption request is concerned. With respect to those few spouses who would be entitled to the notice, the Rule notice may be misleading. Therefore, the Commission has concluded that California law provides consumers who are spouses with protection that is at least equivalent to that provided by the Rules.

4. Other Parties Entitled To Receive the Notice

California maintains that its law offers protection to a greater range of cosigners than does the Rule. The California Code requires that a cosigner notice be given to a person whose collateral is at risk, unless that person actually uses the money, property, or services that are the subject of the transaction. Under § 444.1(k) of the Rule, the term "cosigner" is defined to mean "a natural person who renders himself or herself *liable* for the obligation of another person without compensation" (emphasis added).

California also maintains that its law offers protection to certain cosigners of open-end credit transactions who are not protected by the Rule. The Attorney General states that creditors in California offer open-end credit plans to multiple obligors as joint applicants, each of whom has the theoretical right to credit. Under California law, the cosigner notice would have to be given unless the creditor disclosed clearly and conspicuously in the credit application or agreement that each applicant has the right to receive unlimited credit and that each applicant may be liable for credit extended to any applicant. The creditor would also have to issue each applicant the credit cards or other devices needed to access the credit plan in order to avoid being required to give the cosigner notice.

As to parties entitled to receive the Rule's notice, the Commission agrees with the conclusion of the California Attorney General that California law provides protection at least equivalent to the protection provided by the Rule.

5. Language of the Notice

In its Statement of Basis and Purpose, the Commission noted (at 49 FR 7778) that the cosigner notice should be provided in the same language as that in

[7] The exceptions (*e.g.*, gifts, inherited property) are not pertinent here.

[8] *See e.g.*, Cal. Civ. Code section 5110; *In re Marriage of Fischer*, 78 Cal. App. 3d 556, 561, 146 Cal. Rptr. 561 (1978); *Ford* v. *Ford*, 276 Cal. App. 2d 9, 12–13, 80 Cal. Rptr. 435 (1969), cited in letter of May 1, 1987 from California Attorney General John K. Van De Kamp to Adrienne Hurt, Federal Reserve Board.

[9] The notice says, for example, "This notice is not the contract that makes you liable for the debt."

which the underlying loan contract is written, a matter not specifically addressed in the Rule itself. California requires that a prescribed, Spanish language translation of the notice accompany the English version, and that the notice be translated into the language in which the underlying contract is written, if other than English or Spanish. California maintains that the language requirements for its notice are consistent with the Commission's statement that the cosigner notice should be given in the same language used in the underlying credit agreement.

The Commission agrees with the California Attorney General's conclusion that the requirements of California law as to the language of the cosigner notice afford consumers a level of protection at least equivalent to that afforded by the Rule.

C. Comparison of Prohibitions Against Misrepresentations of Cosigner Liability

Section 444.3(a)(1) of the Rule provides that it is a deceptive act or practice within the meaning of section 5 of the Federal Trade Commission Act for a lender or retail installment seller to misrepresent to any person, directly or indirectly, the nature or extent of cosigner liability. Section 444.3(a)(2) of the Rule provides that it is an unfair act or practice within the meaning of section 5 of the Federal Trade Commission Act for a lender or retail installment seller to obligate a cosigner, directly or indirectly, unless the cosigner is informed of the nature of his liability as a cosigner prior to becoming obligated.

California law does not specifically prohibit misrepresentations of cosigner liability. However, such a cause of action can be found in section 17500 of the California Business and Professions Code, which does proscribe the dissemination of untrue and misleading statements in order to dispose of goods or services. Proof of actual deception, the intent of the disseminator, the customer's knowledge of or reliance on the statement or damages are unnecessary to establish a violation. Sections 17200, 17203, and 17207 of the California Business and Professions Code also prohibit a wide range of practices constituting unfair competition which includes unlawful, unfair, or fraudulent business practices. This law protects consumers as well as businesses.

The Commission agrees with the California Attorney General's conclusion that provisions of California law proscribing the dissemination of untrue and misleading statements to dispose of goods or services afford consumers protection that is substantially equivalent to that afforded by the Rule's provisions proscribing misrepresentations to cosigners about the nature or extent of their liability.

D. Enforcement and Remedies

California contends that its enforcement capabilities, as well as the remedies provided by its law, afford consumers more protection than does the Rule. The Rule provides for penalties of $10,000 per violation, but failure to comply with the Rule does not alter the underlying obligation. The Commission may sue to enforce the Rule, but the Rule provides no private right of action.

Under California law, private parties may bring an action for injunction, restitution, and other equitable relief for California law violations, even if they are not directly aggrieved by the violations. Such actions may also be brought by the Attorney General or any of 58 district attorneys and local prosecutors, all of whom may seek a civil penalty of up to $2,500 for each statutory violation (which could result in a $5,00 penalty for a deceptive statement that violates two provisions of the Code) and up to $6,000 per day for each violation of an injunction issued pursuant to the Business and Professions Code. District and city attorneys maintain active consumer protection divisions. The petition demonstrates California's willingness and ability to enforce the provisions of its cosigner law.

If a consumer credit contract does not comply with California law, a creditor is prohibited from bringing any action or enforcing any security interest against anyone who signed the contract, did not receive any proceeds from the contract, was entitled to receive the cosigner notice and did not receive it.[10] Finally, a party injured through misrepresentation of cosigner liability has a cause of action under California law pursuant to traditional tort theories, such as fraud, deceit, negligent misrepresentation, or mistake, and is entitled to appropriate traditional remedies that might include actual and punitive damages, rescission, or reformation.

The Commission has concluded that the remedies available under California law afford consumers protection that is at least equivalent to the protection afforded by the Rule. The Commission also agrees with the conclusion of the California Attorney General that state authorities in California have the means to enforce effectively the provisions of California law relating to unfair or deceptive cosigner practices.

[10] This prohibition does not affect the rights of a bona fide purchaser for value of property sold pursuant to enforcement of a security interest, if such purchase was made without notice of any facts constituting a violation.

Action Taken

Based on the submission by the California Attorney General in support of the California application for an exemption and upon the comments received, the Commission concludes that the State of California has in place, and is enforcing, comprehensive consumer credit regulations containing protections against the specific abuses that § 444.3 of the Rule is intended to eliminate. The Commission has determined to grant the requested exemption on that basis. As contemplated in the staff guidelines, the exemption will remain in effect for so long as state law continues to afford protection substantially equivalent to that provided by § 444.3 of the Rule and for so long as the state effectively administers and enforces its law. To ensure that the conditions for an exemption continue to be met, the Commission requires the State of California to provide notice to the Commission of any change in its law, policies or procedures, including court decisions, that would significantly affect whether the state law continues to afford substantially equivalent protection and whether the state is effectively enforcing the Act. The Commission reserves the right to revise this reporting requirement at a later date if circumstances warrant or to request additional information if the Commission determines that this is needed.

List of Subjects in 16 CFR Part 444

Consumer credit, Trade practices.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 88-12147 Filed 5-31-88; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 132

[T.D. 88-27]

Elimination of Duplicative Procedures by Customs Personnel

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule; conforming change.

SUMMARY: This document amends the Customs Regulations by eliminating a procedure which has been required of Customs officers, but which is now redundant. Section 132.13(a)(2), Customs Regulations, now requires Customs personnel to note on each entry summary or withdrawal, for consumption, presented for quota purposes, the exact date, hour, and minute of presentation. On September 8, 1987, a Customs Directive was issued which requires brokers to utilize time stamping machines when presenting these entry summaries or withdrawals, for consumption. Because of this requirement, the information which is required by the regulation to be noted on the documents by Customs personnel is already on the documents. Therefore, this change will not result in the loss of any information to Customs regarding the time of entry of merchandise. The amendment will not change the requirement that Customs personnel inform Headquarters of the data contained in an entry summary or withdrawal, for consumption, and the precise time and date of the document's submission. The change will clarify existing policy and eliminate a duplication of effort. The change is nonsubstantive and is essentially procedural.

EFFECTIVE DATE: July 1, 1988.

FOR FURTHER INFORMATION CONTACT: J.R. Dorsett, Office of Trade Operations, U.S. Customs Service, (202) 343-9849.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the U.S. Customs Service policy of continually striving to expedite and facilitate the orderly flow of entry documentation, the U.S. Customs Service issued Customs Directive No. 3550-24, on September 8, 1987. That directive provided that members of the public presenting entry summaries for quota merchandise would no longer have to wait for a receipt to be issued by Customs, but would utilize time-stamping machines which would be made available for their use.

Section 132.13(a)(2), Customs Regulations (19 CFR 132.13(a)(2)), provides that Customs officers note the exact date, hour and minute of the presentation on each entry summary or withdrawal, for consumption. That requirement had been placed on the Customs officers prior to the establishment of the current policy. Because this information will now be on the entry documents when they are presented to the Customs officials, retaining the requirement that the official enter the same data is unnecessary and duplicative.

Accordingly, the requirement that the Customs official note the exact date, hour and minute of presentation on the entry document will be eliminated. The requirement that this information be reported to Headquarters will be retained.

This amendment will not place any additional requirement on the members of the public, and it will not result in the loss of required information to the Customs Service.

Executive Order 12291

Because this document will not result in a "major rule" as defined by section 1(b) of E.O. 12291, the regulatory analysis and review prescribed by the E.O. are not required.

Public Notice Requirement

Inasmuch as the amendment concerning the acts of Customs officials is merely to avoid duplication in the collection of information and conforms to preexisting directives, and because no new regulatory burdens are imposed on the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 132

Customs duties and inspection, Imports, Quotas.

Amendment To The Regulation

Part 132, Customs Regulations (19 CFR Part 132) is amended as set forth below.

PART 132—[AMENDED]

1. The authority citation for Part 132 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (Gen. Headnote 11), and 1624.

2. Section 132.13 is amended by revising the subheading of paragraph (a)(2) and its text to read as follows:

§ 132.13 Quotas after opening.

(a) * * *

* * * * * *

(2) *Report of time of presentation.* The date, hour and minute that an entry summary for consumption or withdrawal for consumption is presented at a port of entry must be indicated on the document by a method deemed acceptable by Customs. The appropriate Customs officer shall report this information to Headquarters.

* * * * *

Michael H. Lane,
Acting Commissioner of Customs.

Approved: May 11, 1988.

Francis A. Keating II,
Assistant Secretary of the Treasury.

[FR Doc. 88-12221 Filed 5-31-88; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-88-1804; FR-2515]

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

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

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

SUMMARY: This Notice amends the listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by increasing the mortgage limits in Washington, Providence, Bristol, Kent and Newport Counties, Rhode Island; Saratoga County, New York; Pueblo, Arapahoe, Jefferson and Douglas Counties, Colorado; Clark County, Nevada; Bucks County, Pennsylvania; Mecklenburg County, North Carolina; and the Montgomery, Alabama MSA; and adding "high-cost" mortgage limits for Erie County, New York. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

EFFECTIVE DATE: June 1, 1988.

FURTHER INFORMATION CONTACT: For single family: Morris Carter, Director, Single Family Development Division, Room 9270; telephone (202) 755-6720. For manufactured homes: Robert J. Coyle, Director, Title I Insurance Division, Room 9160; telephone (202) 755-6880; 451 Seventh Street, SW., Washington, DC 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

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

On March 3, 1988 (53 FR 6922), the Department published its most recent annual complete listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act, and their applicable limits for each area.

This Document

Today's document increases high-cost mortgage amounts for Washington, Providence, Bristol, Kent and Newport Counties, Rhode Island; Saratoga County, New York; Pueblo, Arapahoe, Jefferson and Douglas Counties, Colorado; Clark County, Nevada; Bucks County, Pennsylvania; Mecklenburg County, North Carolina; and the Montgomery, Alabama MSA; and adds "high-cost" mortgage limits for Erie County, New York.

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

National Housing Act High Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. Section 2(b)(1)(D). Combination Manufactured Home and Lot (Excluding Alaska, Guam and Hawaii)

To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .80. For example, Erie County (New York) has a one-family limit of $78,850. The combination home and lot loan limit for Erie County is $78,850 x .80, or $63,080.

B. Section 2(b)(1)(E): Lot Only (excluding Alaska, Guam and Hawaii);

To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .20. For example, Erie County (New York) has a one-family limit of $78,850. The lot-only loan limit for Erie County is $78,850 X .20, or $15,770.

C. Section 2(b)(2). Alaska, Guam and Hawaii Limits

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

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

1. For manufactured homes: $56,700. (40,500 X 140%).
2. For combination manufactured homes and lots: 75,600. ($54,000 X 140%).
3. For lots only: $18,900. (13,500 X 140%).

II. Title II:

UPDATING OF FHA SECTIONS 203(B), 234(C) AND 214 AREA WIDE MORTGAGE LIMITS

REGION I

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Providence Office				
State of Rhode Island	$101,250	$114,000	$138,000	$160,500

REGION II

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Buffalo Office				
Erie County, NY	$78,850	$88,800	$107,900	$124,500
HUD Field Office—Albany Office				
Saratoga County, NY	$101,250	$114,000	$138,000	$160,500

REGION III

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Philadelphia Office				
Bucks County, PA	$100,350	$113,000	$137,300	$158,450

REGION IV

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Greensboro Office				
Mecklenburg County, NC	$101,250	$114,000	$138,000	$160,500
HUD Field Office—Birmingham Office				
Montgomery, AL MSA: Atauga County Elmore County Montgomery County	$84,500	$95,150	$115,650	$133,400

REGION VIII

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Denver Office				
Arapahoe County, CO	$101,250	$114,000	$138,000	$160,500
Jefferson County, CO	101,250	114,000	138,000	160,500
Douglas County, CO	101,250	114,000	138,000	160,500
Pueblo County, CO	73,550	82,850	100,650	116,150

REGION IX

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Las Vegas Office				
Las Vegas, NV MSA: Clark County, NV	$101,250	$114,000	$138,000	$160,500

Date: May 23, 1988.

James E. Schoenberger,

General Deputy, Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 88-12229 Filed 5-31-88; 8:45 am]

BILLING CODE 4210-27-M

24 CFR Part 885

[Docket No. R-88-1391; FR-2477]

Loans for Housing for the Elderly or Handicapped

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

ACTION: Interim rule.

SUMMARY: This interim rule amends HUD's regulations governing projects that receive direct loans under Section 202 of the Housing Act of 1959 and housing assistance under Section 8 of the United States Housing Act of 1937. This rule amends 24 CFR Part 885 to incorporate loan interest rate provisions contained in the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988).

DATES: This rule is effective on July 11, 1988. Comments are due July 31, 1988.

ADDRESS: Interested persons are invited to submit comments to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Wilden, Assisted Elderly and Handicapped Housing Division, Room 6118, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone 426-8730. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Purpose

HUD's regulations at 24 CFR Part 885 govern projects that receive direct loans under Section 202 of the Housing Act of 1959 and housing assistance payments under Section 8 of the United States Housing Act of 1937. On February 5, 1988, President Reagan approved the Housing and Community Development Act of 1987 (Pub. L. 100-242) ("the Act"). This Act revises the section 202 program in several ways.

The purpose of this rulemaking is to implement immediately the statutory changes governing the section 202 loan interest rate. These changes were effective on enactment and require little regulatory elaboration. Other statutory changes affecting the section 202 program cannot be implemented immediately and will be incorporated in a related rule to be published later this year.

II. Statutory provisions

Before the recent amendment, section 202(a)(3) provided that the rate of interest on section 202 loans shall not exceed "a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made, adjusted to the nearest one-eighth of one per centum, plus an allowance adequate in the judgment of the Secretary to cover

administrative costs and probable losses under the program."

In recent years, Congress has imposed a statutory ceiling on the section 202 interest rate. Section 223(a)(1) of the Housing and Urban-Rural Recovery Act of 1983 provided that the interest rate plus the allowance for loans made during Fiscal Year 1984 could not exceed 9.25 percent per annum. Congress continued to impose this ceiling on loans made during Fiscal Years 1985–88.

Section 161 of the Act revises the interest rate provisions in section 202(a)(3) in several ways:

—Statutory Formula. Section 161(c)(1)(B) revises the formula for the section 202 interest rate calculation. The new act provides that the interest rate on section 202 loans shall not exceed a rate determined by the Secretary of HUD "taking into consideration the average yield during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States" adjusted to the nearest one-eighth of one percentum, plus an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

—Statutory Ceiling. Section 161(c)(2) makes the 9.25 percent ceiling permanent.

—Optional interest rate. Under section 161(c)(1)(C) of the Act, the Borrower is given the option to have the section 202 interest rate determined at the time that a request is submitted to HUD for a conditional or firm commitment. This interest rate is calculated by using the formula and statutory ceilings described above, except that the time period for determining the average yield on the most recently issued 30-year marketable obligations of the United States is modified. The statute provides that the loan may be made either: (1) at an interest rate that does not exceed the average yield of such obligations for the one-month period prior to the month in which the request for commitment is made; or (2) at an interest rate that does not exceed the average yield of such obligations for the three-month period immediately preceding the fiscal year in which the request for commitment is made.

III. Regulatory Implementation

The interim rule revises § 885.410(g) to incorporate the new interest rate calculation provisions. Provisions governing the calculation of the annual interest rate are found at paragraph (g)(1). The optional rate is addressed at paragraph (g)(2). These provisions reflect the statutory language and, except as noted below, require no further explanation in this preamble. The interim rule also makes conforming changes to existing provisions governing the request for direct loan financing and approval of such requests (§§ 885.400 and 885.405) and makes appropriate modifications to existing § 885.410(h).

The following provisions of the interim rule require further explanation:

A. Date of submission of the request for commitment.

As noted above, the computation of the optional rate depends, in part, on the date that the request for conditional commitment or the date that the request for firm commitment is submitted to HUD. Borrowers often submit requests for commitment that are incomplete or otherwise unacceptable. To make sure that there is no confusion concerning the date of submission of such requests, the rule provides that the date of submission of a request is the date that the Borrower submits a complete and acceptable request to HUD under § 885.400.

Many requests for conditional or firm commitment are reprocessed. Where reprocessing has occurred, there may be confusion concerning the exact date that the request for commitment is submitted. The rule provides that the date of the submission of the request for commitment will not be affected by any subsequent resubmission of the request by the Borrower or by any reprocessing of the request by HUD.

B. Withdrawal of election of the optional rate.

To make it clear that the optional rate is applicable at the election of the Borrower, the interim rule permits the Borrower to withdraw its election of the rate at any time before initial loan closing. (See § 885.410(g)(2)(iii).) If the Borrower elected the optional interest rate with its request for conditional commitment and withdraws its election, the loan will bear interest at the rate determined under § 885.410(g)(1), unless the Borrower elects an optional interest rate with its request for firm commitment. If the Borrower withdraws its election after the date of submission of its request for firm commitment, the loan will bear interest at the rate determined under paragraph (g)(1).

C. Cancellation of optional rate by HUD.

HUD must ensure that section 202 projects are completed and put into operation as expeditiously as possible. Accordingly, under existing § 885.230, HUD may cancel a fund reservation at any time if it can be established that the Borrower is not making satifactory progress toward the start of construction, rehabilitation, or acquisition. Moreover, under this same section, HUD may cancel any reservation of section 202 loan funds for projects for which the construction, substantial rehabilitation, or acquisition with or without rehabilitation is not begun *within 18 months after the notice of section 202 Fund Reservation is issued,* unless an extension of time not to exceed six months is requested of, and granted by, HUD.

The statutory provisions contained in the Act do not provide an expiration date for the optional interest rate. However, HUD believes that it would be contrary to the goal of encouraging reasonable progress toward project operation to permit the optional rates to apply for the duration of an *extended* fund reservation. While we will continue to provide appropriate extensions of time for fund reservations, we do not believe that it is appropriate to permit Borrowers to receive the benefit of an optional rate during the period of the extension.

Accordingly, § 885.410(g)(2)(iv) provides that if the initial loan closing has not occurred within 18 months after issuance of the notice of section 202 fund reservation, the Borrower's election of the optional rate will be cancelled and the loan will bear interest at the rate determined in accordance with § 885.410(g)(1).

D. Notification of interest rate.

Currently, the Secretary annually publishes a notice of the loan interest rate in the **Federal Register.** Today's interim rule retains this **Federal Register** publication requirement for loan interest rate determinations that are based on the average yield of the most recently issued 30-year obligations during the 3-month period immediately preceding the fiscal year in which the loan is made. (See § 885.410(h)(1).)

Because the optional interest rate may fluctuate monthly, depending on the average yield for 30-year marketable obligations during the one-month period immediately before the month that the borrower submits its commitment request, it would be impossible for HUD to arrange for the timely publication of these monthly interest rate calculations in the **Federal Register.** Moreover, even if HUD could issue timely publications, HUD believes that the continuation of this requirement would generate an excessive and potentially confusing number of **Federal Register** publications. In light of the recent statutory changes,

HUD believes that a more effective way of notifying borrowers of the optional interest rate for section 202 loans is to provide the information upon the Borrower's request. (See § 885.410(h)(2).)

III. FY–1988 Section 202 Loan Interest Rates

A. Calculation of the FY–1988 interest rate.

The Conference Report states that the new interest rate formulae are intended to apply to all section 202 loans that are closed after the enactment date (House Report No. 100–426, 100th Cong., 1st Sess. 182). Based on information contained in the Federal Reserve Board of Governor's Statistical Release H–15, the average yields on the most recently issued 30-year marketable obligations of the United States during the three-month period immediately preceding FY–1988 were: 8.64 percent for July, 1987; 8.97 percent for August 1987; and 9.59 percent for September, 1987. Based on these rates, the average yield for such obligations during the three-month period immediately preceding FY–1988 was 9.07 percent. Rounded to the nearest one-eighth of one percent, the average yield would be 9.125. This rounded rate, plus the .25 percent allowance to cover administrative costs and probable losses under the program,[1] would provide a section 202 interest rate of 9.375 percent per annum. Thus, under the new formula, the maximum loan interest rate that HUD could set for the section 202 loans would be the statutory ceiling of 9.25 percent.

On November 2, 1987 (52 FR 41989), HUD established a 9 percent per annum interest rate for section 202 loans made during FY–1988. This interest rate was based on the interest rate formula in effect before the enactment of the Act. While the Conference report stated that the new interest rate formulae were intended to apply to all section 202 loans closed after the enactment date, HUD believes that the conferee's intent was to provide a lower interest rate for section 202 Borrowers, rather than to enable HUD to increase the loan interest rate. Since the interest rate determination under the new Act is a *maximum* limit on the section 202 loan interest rate, HUD believes that it is more consistent with the congressional intent to maintain the announced 9 percent interest rate for FY–1988.

[1] Existing § 885.410(g)(1) states that the Secretary of HUD has determined that the allowance to cover administrative costs and probable losses under the program is .25 percent per annum for both the construction and permanent loan periods.

B. Calculation of the optional rate.

1. Optional rate for Borrowers funded in FY–1987 that submitted a request for commitment before February 5, 1988, and where initial loan closing did not occur before February 5, 1988.

The Conference Report stated that the conferees intended "that the provisions giving the borrower the option to lock in a rate at the time a commitment request is submitted apply to requests submitted prior to enactment if the loan is closed after the enactment date." (House Report No. 100–426, 100th Cong., 1st Sess. 182.) HUD does not believe that the conferees intended to give Borrowers the opportunity to elect section 202 interest rates based on average yields computed during the one-month period immediately before the month in which the request for commitment was *originally* submitted, or based on the three-month period immediately preceding the fiscal year in which the request for commitment was *originally* submitted. Such a conclusion would treat similarly-situated Borrowers inequitably and would impose an enormous administrative burden on the Department. In order to comply with the conferees' intent, HUD has decided to provide an optional rate to this class of Borrowers based upon applicable market yields on the enactment date (February 5, 1988).

HUD has determined that the optional percent rate for such Borrowers is 9 percent, based on the following factors:

—The average yield on 30-year marketable obligations of the United States issued during the three-month period immediately preceding FY–1988, plus an allowance for administrative costs and probable losses under the program. As noted above, this rate is 9.375 percent per annum, but was capped at 9 percent per annum in order to give effect to the conferee's intention to benefit section 202 borrowers with the better of the two rates.

—The average yield on 30-year marketable obligations of the United States issued during the one-month period immediately preceding the enactment date, plus an allowance for administrative costs and probable losses. Based on information contained in the Federal Reserve Board of Governor's Statistical Release H–15, the average yield on the most recently issued 30-year marketable obligations of the United States during the month of January 1988 was 8.83 percent per annum. This yield, rounded to the nearest one-eighth of one percent (8.875 percent) plus the .25 percent allowance for administrative costs and probable loses, would provide an interest rate of 9.125 percent per annum.

—The statutory ceiling of 9.25 percent.

HUD will assume that all Borrowers that made a request for commitment before February 5, 1988 but did not go to initial loan closing before February 5, 1988 will elect the optional rate, as calculated above. In order to lock in the 9 percent rate, however, each affected Borrower must file a written election of the rate within 30 days of the publication of this rule. (These Borrowers may withdraw this election at any time before initial loan closing.)

2. Optional rate for Borrowers funded in FY 1987 that submitted a request for commitment after February 5, 1988 but before the effective date of this rule.

If initial loan closing has not occurred before the effective date of this rule, HUD will take the following steps. HUD will notify each Borrower of its right to elect the optional interest rate, and will give the Borrower 30 days to file a written election of the optional rate. The Borrower may withdraw this election at any time before loan closing.

If the initial loan closing occurs before the effective date of this rule, HUD will take the following steps. If the optional interest rate fell below 9 percent in the month preceding the month in which the Borrower made its request for commitment, HUD will contact the Borrower and will make appropriate loan modifications to reflect the lower rate for such Borrowers.

IV. Findings and Certifications

In the Conference Report cited above, the conferees expressly stated their intent that the section 202 interest rate provisions contained in the Act become effective immediately. Accordingly, the Department regards the underlying statutory changes as mandatory and self-executing and has determined that good cause exists for making this rule effective as soon after publication as possible. However, public comments are invited for 60 days following publication of this interim rule. These comments will be considered in the adoption of a final rule.

Under 24 CFR 50.20(1), an environmental finding is not necessary because the statutorily required establishment of interest rates is among matters categorically excluded from the environmental requirements of 24 CFR Part 50.

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the

rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule provides HUD with additional flexibility in adjusting section 202 interest rates in periods of low market interest rates, and may result in lower section 202 interest rates for some Borrowers. The effect of these changes on small entities, however, should be minor.

This rule was listed in the Department's Semiannual Agenda of Regulations published April 25, 1988 (53 FR 13854, 13879) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.157, Housing for the Elderly or Handicapped.

List of Subjects in 24 CFR Part 885

Aged, Grant programs: housing and community development, Handicapped, Loan programs: housing and community development, Low- and moderate-income housing.

Accordingly, the Department amends 24 CFR Part 885 to read as follows:

PART 885—HOUSING FOR THE ELDERLY OR HANDICAPPED

1. The authority citation for 24 CFR Part 885 continues to read as follows:

Authority: Section 202, Housing Act of 1959 (12 U.S.C. 1701q); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 885.400, the introductory paragraph and paragraphs (a), (b), and (c) are redesignated as paragraphs (a), (b), (c), and (e), respectively, the reference to paragraph (a) in redesignated paragraph (c) is revised to refer to paragraph (b), and a new paragraph (d) is added to read as follows:

§ 885.400 Request for direct loan financing.

* * * * *

(d) When the request for conditional or firm commitment for direct loan financing is submitted, the Borrower may request that the loan interest rate be computed at the optional interest rate as provided under § 885.410(g)(2). If the Borrower makes such a request, the loan interest rate used for the processing of the request for conditional or firm commitment under paragraph (b) or (c) shall be the optional loan interest rate. If the Borrower does not make a request for the optional rate, the interest rate used for processing the request shall be the interest rate computed under § 885.410(g)(1).

* * * * *

3. In § 885.405, new paragraphs (a)(8) and (b)(4) are added, to read as follows:

§ 885.405 Approval of requests for direct loan financing.

* * * * *

(a) * * *

(8) The interest rate used in the processing of the request.

(b) * * *

(4) The interest rate used in the processing of the request.

* * * * *

4. Paragraphs (g) and (h) of § 885.410 are revised to read as follows:

§ 885.410 Amount and terms of financing.

* * * * *

(g) *Loan interest rate.* The loan is made on the date of the initial loan closing under § 885.415. Loans shall bear interest at a rate determined by HUD in accordance with this section.

(1) *Annual interest rate.* Except as provided under paragraph (g)(2), loans shall bear interest at the rate in effect at the time the loan is made. The loan interest rate shall not exceed:

(i) The average yield on the most recently issued 30-year marketable obligations of the United States during the three-month period immediately preceding the fiscal year in which the loan is made (adjusted to the nearest one-eighth of one percent), plus an allowance to cover administrative costs and probable losses under the program; and

(ii) Any applicable statutory ceiling on the loan interest rate including the allowance to cover administrative costs and probable losses.

(2) *Optional interest rate.* The borrower may elect an optional loan interest rate. To elect the optional rate, the Borrower must request that HUD determine the loan interest rate at the time of the Borrower's request for conditional or firm commitment for direct loan financing under § 885.400.

(i) If the borrower elects the optional loan interest rate, the loan interest rate shall not exceed:

(A) The average yield on the most recently issued 30-year marketable obligations of the United States during the three-month period immediately preceding the fiscal year in which the request for commitment is submitted (adjusted to the nearest one-eighth of one percent), plus an allowance to cover administrative costs and probably losses under the program;

(B) The average yield on the most recently issued 30-year marketable obligations of the United States during the one-month period immediately preceding the month in which the request for commitment is submitted (adjusted to the nearest one-eighth of one percent), plus an allowance to cover the administrative costs and probable losses under the program; and

(C) Any applicable statutory ceiling on the loan interest rate including an allowance to cover administrative costs and probable losses under the program.

(ii) The date of submission of a request for conditional or firm commitment is the date that the Borrower submits the complete and acceptable request to HUD under § 885.400. The date of the submission of a request for commitment will not be affected by any subsequent resubmission of the request by the Borrower or by any reprocessing of the request by HUD.

(iii) The Borrower may withdraw its election of the optional interest rate at any time before initial loan closing. If the Borrower elected the optional interest rate with its request for conditional commitment and withdraws its election, the loan will bear interest at the rate determined under paragraph (g)(1), unless the Borrower elects an optional interest rate with its request for firm commitment. If the Borrower withdraws its election after the date of submission of its request for firm commitment, the loan will bear interest at the rate determined under paragraph (g)(1) of this section.

(iv) If initial loan closing has not occurred within 18 months after the Notice of Section 202 Fund Reservation is issued, the Borrower's election of the optional rate will be cancelled and the loan will bear interest at the rate determined under paragraph (g)(1) of this section.

(3) *Allowance for administrative costs and probable losses.* For the purpose of computing the loan interest rate under paragraphs (g) (1) and (2) of this section, the allowance to cover administrative costs and probable losses under the program is one-fourth of one percent (.25%) per annum for both the

construction and permanent loan periods.

(h) *Announcement of interest rates.* (1) HUD will annually announce the loan interest rate determination under paragraph (g)(1) of this section by publishing notice of the rate in the **Federal Register.** The **Federal Register** notice will include a statement explaining the basis for the interest rate determination.

(2) Upon the Borrower's request, HUD will provide available current information concerning the determination of the interest rate under paragraph (g)(2) of this section.

* * * * *

Date: April 29, 1988.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 88-12230 Filed 5-31-88; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Approval of Amendments to the Arkansas Permanent Regulatory Program

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of proposed amendments submitted by the State of Arkansas as modifications to its permanent regulatory program (hereinafter referred to as the Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments provide the Arkansas Department of Pollution Control and Ecology (ADPCE) with the authority to require an applicant for a mining permit to collect additional data and/or take mitigative or protective measures to minimize adverse impacts on historic properties or archeological resources. These amendments are in response to the revised rules promulgated by OSMRE regarding protection of historic properties and archeological resources.

EFFECTIVE DATE: June 1, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. James Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 E. Skelly Drive, Suite 550, Tulsa, Oklahoma 74135, Telephone: (918) 581-6430.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior approved the Arkansas program on November 21, 1980. Information pertinent to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval, can be found in the November 21, 1980, **Federal Register** (45 FR 77003). Subsequent actions concerning program amendments are identified at 30 CFR 904.10 and 904.15.

II. Submission of Program Amendments

On February 10, 1987, OSMRE promulgated revised regulations concerning the consideration which must be accorded historic properties or archeological resources during the permitting of surface coal mining operations (52 FR 4244). These rules respond to the decisions rendered by the U.S. District Court for the District of Columbia in *In re: Permanent Surface Mining Regulation Litigation II,* Civil Action No. 79-1144, facilitate implementation of OSMRE's responsibilities under the National Historic Preservation Act of 1966 (NHPA), as amended, and clarify the responsibilities of OSMRE, State regulatory authorities and applicants for permits to conduct surface coal mining operations and coal explorations.

In accordance with the provisions of 30 CFR 732.17(d), OSMRE notified Arkansas, by letter dated June 9, 1987, (Administrative Record No. AR-326), of the changes necessary to ensure that the approved regulatory program was in accordance with SMCRA and no less effective than its implementing regulations, as revised since November 21, 1980, when the Arkansas program was originally approved. To comply with the requirements of 30 CFR 732.17(f)(1), the State of Arkansas submitted proposed program amendments to OSMRE on November 4, 1987 (Administrative Record No. AR-329).

OSMRE announced receipt of the amendments in the December 14, 1987, **Federal Register** (52 FR 47411) and in the same notice, initiated a 30-day public comment period and provided an opportunity for a public hearing on the substantive adequacy of the proposed amendments. No public comments were received by January 13, 1988, the close of the comment period, and because no one requested an opportunity to testify, no public hearing was held.

The amendment contains additions and/or revisions to the following parts of the Arkansas Surface Coal Mining and Reclamation Code (ASCMRC): Part 776, General requirements for coal exploration operations; Part 779, Surface mining permit applications—minimum requirements for information on environmental resources; Part 780, Surface mining permit applications—minimum requirement for reclamation and operation plan; and Part 786, Review, public participation, and approval or disapproval of permit applications and permit terms and conditions.

In the November 4, 1987 letter, Arkansas submitted a policy statement affirming that ASCMRC 761.11(c) and 761.12(f)(i) will protect all privately owned National Register Sites.

Arkansas added language to ASCMRC 776.12(a)(3)(i), giving the Director of ADPCE authority to require any information regarding known or unknown historical sites when reviewing an application for coal exploration.

Language was added to ASCMRC 779.12(b) regarding permit application requirements for information on environmental resources. The new regulation gives the Director of ADPCE authority to require additional information regarding historic and archeological resources that may be listed on, or eligible for listing on, the National Register of Historic Places (NRHP).

The State of Arkansas rewrote ASCMRC 780.31 with regard to the permit application requirements for reclamation and operation plans. The new regulation provides the Director of ADPCE authority to require an applicant to take appropriate measures to protect historic or archeological properties listed on or eligible for listing on NRHP.

With the addition of ASCMRC 786.19(p), a new required finding has been added to the list of written findings that the Director of ADPCE must make prior to approving any permit application or application for a significant revision of a permit. The finding will state that the Director has taken into account the effect of the proposed permitting action on properties listed on or eligible for listing on NRHP.

III. Director's Findings

In general, the revised regulations are identical to the corresponding Federal regulations, with minor changes to improve specificity and to replace Federal references and terms with State references and terms.

Finding No. 1: ASCMRC 776.12(a)(3)(i), Coal Exploration

Arkansas made additions to ASCMRC 776.12(a)(3)(i) that correspond to the

Federal regulation at 30 CFR 772.12(b)(i)(iv). The differences between the State and Federal regulations are minor, nonsubstantive wording changes.

The regulation gives the Director of ADPCE authority to require any information regarding known or unknown historical sites when reviewing an application for coal exploration. The Director finds this proposed amendment no less effective than the Federal regulations.

Finding No. 2: ASCMRC 779.12(b), Environmental Resources

Language identical to the Federal regulation at 30 CFR 779.12(b)(2) was added to ASCMRC 779.12(b). With regard to permit application requirements for information on environmental resources, the new regulation will give the Director of ADPCE authority to require additional information regarding historic and archeological resources that may be listed on or eligible for listing on NRHP. The Director finds that the proposed amendment is no less effective than the Federal regulations.

Finding No. 3: ASCMRC 780.31, Reclamation Plans

Arkansas rewrote ASCMRC 780.31 identical to the corresponding Federal regulation at 30 CFR 780.31. The regulation provides the Director of ADPCE authority to require an applicant to take appropriate measures to protect historic or archeological properties listed on or eligible for listing on NRHP as a part of the proposed reclamation plan. The Director finds this proposed amendment to be no less effective than the Federal regulations.

Finding No. 4: ASCMRC 786.19(p), Required Findings

The addition of ASCMRC 786.19(p) parallels the Federal regulations at 30 CFR 773.15(c). A new required finding is being added to the list of written findings that the Director of ADPCE must make prior to approving any permit application or application for significant revision of a permit. The finding will state prior to approval of any application that the Director has taken into account the effect of the proposed permitting action on properties listed on, or eligible for listing on NRHP. The Director finds this proposed amendment to be no less effective than the Federal regulations.

After a thorough review pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, the Director finds that the proposed amendments, as submitted on November 4, 1987, are no less stringent than the requirements of SMCRA and no less effective than the corresponding Federal regulations, although the Director may require further changes in the future as a result of Federal regulatory revisions, court decisions, and his ongoing oversight of the Arkansas program.

IV. Public Comment

The Director solicited public comment on the proposed amendment and provided opportunity for public hearing (52 FR 47411). No comments were received. Because no one requested an opportunity to testify at a public hearing, no hearing was held. Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were also solicited from various State and Federal agencies.

30 CFR 732.17(h)(4) requires all amendments that may have an effect on historic properties be provided to the State Historic Preservation Officer (SHPO) and to the Advisory Council on Historic Preservation for comment. These offices were solicited for comment. The Advisory Council on Historic Preservation made no response. This was taken as no comment.

The Arkansas State Historic Preservation Officer responded with two comments (Administrative Record No. AR–337). First, the SHPO noted that all references to the National Register for Historic Places should be changed to read the National Register *of* Historic Places. Arkansas noted the incorrect references are typogrpahical errors that will be corrected when the State adopts the amendment.

The second comment concerned the lack of reference to Section 106 of the National Historic Preservation Act of 1966 or compliance with the Federal regulations found at 36 CFR Part 800. Although such a reference would be appropriate, the State's wording is in accordance with the Federal regulations and the reference to the above mentioned Act or regulations is not required.

No other comments were received.

V. Director's Decision

Based on the above findings, the Director is approving the proposed amendments submitted to OSMRE by Arkansas on November 4, 1987, provided that Arkansas promulgates these regulations in identical form, with the exception of typographical errors, to that November 4, 1987 submission. The Director is amending 30 CFR Part 904 to codify the approval of this amendment. This final rule is being made effective immediately to expedite the State program amendment process and to encourage the State to conform their programs to the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Requirements

1. Compliance With the National Environmental Policy Act

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

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

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

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

3. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 904

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

Dated: May 25, 1988.

Robert E. Boldt,

Deputy Director.

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

PART 904—ARKANSAS

1. The authority citation for Part 904 continues to read as follows:

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

2. Section 904.15 is amended by adding a new paragraph (e) as follows:

§ 904.15 Approval of amendments to State regulatory program.

* * * * *

(e) The following amendments to the Arkansas Surface Mining and Reclamation Code, as submitted to OSMRE on November 4, 1987, are approved effective June 1, 1988. Revisions to Arkansas regulations are at sections: 776.12(a)(3)(i), 779.12(b), 780.31, and 786.19(p). This approval is contingent upon the State's promulgation of the proposed regulations in the identical form submitted for OSMRE's review and approval with the exception of typographical errors.

[FR Doc. 88-12170 Filed 5-31-88; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 285

[DoD Directive 5400.7]

DoD Freedom of Information Act Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule publishes a revision of DoD Directive 5400.7, which is the authority document for the publication of DoD 5400.7-R. DoD 5400.7-R (32 CFR Part 286) was published as a final rule on July 10, 1987 (Vol. 52, No. 132) pursuant to the Freedom of Information Reform Act of 1986, section 1801-1804 (Pub. L. 99-540); and section 954 of the National Defense Authorization Act for FY 1987 (Pub. L. 99-661). This final rule merely addresses nonsubstantive administrative changes to DoD Directive 5400.7 to make it consistent with DoD 5400.7-R.

EFFECTIVE DATE: May 13, 1988.

ADDRESS: Office of the Assistant Secretary of Defense (Public Affairs), Room 2C757, the Pentagon, Washington, DC 20301-1400.

FOR FURTHER INFORMATION CONTACT: C. Talbott, telephone (202) 697-1180.

SUPPLEMENTARY INFORMATION: 32 CFR Part 285 was published as a proposed rule on Tuesday, December 22, 1987 (Vol 52, No. 245).

List of Subjects in 32 CFR Part 285

Freedom of Information.

Accordingly, Title 32, Chapter I, is amended to add Part 285 as follows:

PART 285—DOD FREEDOM OF INFORMATION ACT PROGRAM

Sec.

Authority: Pub. L. 99-570, secs. 1801-1804; Pub. L. 99-661, sec. 2328; 5 U.S.C. 552.

§ 285.1 Reissuance and purpose.

(a) This part:

(1) Reissues DoD Directive 5400.7.[1]

(2) Establishes policies and procedures for the implementation of the DoD Freedom of Information Act (FOIA) Program under 5 U.S.C. 552.

(3) Delegates authorities and responsibilities for the effective administration of the program.

(b) This part also authorizes, consistent with DoD 5025.1-M [2] the publication of DoD 5400.7-R [3] the single DoD regulation on the FOIA Program.

§ 285.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), the Unified Commands, the Defense Agencies, and the DoD Field Activities. For the purpose of this Directive, OSD, OJCS, the Unified Commands, and the DoD Field Activities are considered a single "DoD Component." The other DoD Components referred to herein are the Military Departments, Defense Communications Agency (DCA), Defense Contract Audit Agency (DCAA), Defense Intelligence Agency (DIA), Defense Investigative Service (DIS), Defense Logistics Agency (DLA), Defense Mapping Agency (DMA), Defense Nuclear Agency (DNA), and the National Security Agency/Central Security Service (NSA/CSS).

(b) The NSA/CSS records are subject to this part unless the records are exempt under Pub. L. 86-36.

§ 285.3 Definitions.

The terms used in this part are defined in 32 CFR Part 286.

§ 285.4 Policy.

It is DoD policy to:

(a) Promote public trust by making the maximum amount of information available to the public on the operation and activities of the Department of Defense, consistent with DoD's responsibility to ensure national security.

(b) Allow a requester to obtain records from the Department of Defense that are available through other public information services without invoking the FOIA.

(c) Make available, under the procedures established by 32 CFR Part 286, those records that are requested by a member of the general public who cites the FOIA.

(d) Answer promptly all other requests for information, records, objects, and articles under established procedures and practices.

(e) Release records to the public unless those records are exempt from mandatory disclosure as outlined in Subpart C of 32 CFR Part 286.

(f) Process requests by individuals for access to records about themselves under the "Privacy Act" procedures as implemented by 32 CFR Part 286a and procedures outlined in this part as amplified by 32 CFR Part 286.

§ 285.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Public Affairs)* (ADS(PA)) shall:

(1) Direct and administer the DoD FOIA Program to ensure compliance with policies and procedures that govern the administration of the program.

(2) Issue a DoD FOIA regulation and other discretionary instructions and guidance to ensure timely and reasonably uniform implementation of the FOIA in the Department of Defense.

(3) Internally administer the FOIA Program for the OSD, the OJCS and, as an exception to DoD Directive 5100.3 [4] the Unified Commands (the Specified Commands remain under the Military Departments for FOIA matters).

(4) As the designee of the Secretary of Defense, serve as the sole appellate authority for appeals to decisions of respective Initial Denial Authorities identified in ASD(PA) supplementing instructions.

(b) The *General Counsel, Department of Defense* (GC, DoD) shall provide uniformity in the legal interpretation of this Directive.

(c) The *Heads of DoD Components* shall:

(1) Publish in the **Federal Register** any instructions necessary for the internal administration of this part within a DoD Component that are not prescribed by this part or by other issuances of the ASD(PA). For the guidance of the public,

---

[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.

[2] Copies may be obtained, at cost, from the National Technical Information Service, 5258 Port Royal Road, Springfield, VA 22161.

[3] See footnote 2 to § 285.1(b).

[4] See footnote 1 to § 286.1(a).

the information specified in 5 U.S.C. 552(a)(1) shall be published in accordance with 32 CFR Part 296.

(2) Conduct training on the provisions of this part and 5 U.S.C., as amended, for officials and employees who implement the FOIA.

(3) Submit the reports prescribed in Chapter VII of DoD 5400.7–R.

(4) Make available for public inspection and copying in an appropriate facility or facilities, in accordance with rules published in the **Federal Register**, the records specified in 5 U.S.C. 552(a)(2) unless such records are published and copies are offered for sale.

(5) Maintain and make available for public inspection and copying current indices of these records.

§ 285.6 Information requirements.

The reporting requirements in Chapter VII of DoD 5400.7–R have been assigned Report Control Symbol DD–PA(A)1365.

§ 285.7 Effective date and implementation.

This part is effective May 13, 1988. Forward one copy of implementing documents to the Assistant Secretary of Defense (Public Affairs) within 120 days.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

May 26, 1988.

[FR Doc. 88–12300 Filed 5–31–88; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09–88–08]

Special Local Regulations; Budweiser Thunderboat Championship, Detroit River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Budweiser Thunderboat Championship Race to be held on the Detroit River. This event will be held on 9, 10, 11, and 12 June 1988. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on 9 June 1988 and terminate on 12 June 1988.

FOR FURTHER INFORMATION CONTACT: CWO Patrick M. Farrell, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–3982.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District, until 05 May, 1988, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

This has been an annual event for many years and no negative comments concerning it have been received.

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). Because of the short duration of these regulations, their economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The drafters of this regulation are CWO Patrick M. Farrell, project officer, Office of Search and Rescue and LCDR M. V. Mosebach, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Budweiser Thunderboat Championship Race will be conducted on the Detroit River on 9, 10, 11, and 12 June 1988. This event will have an estimated 60 Hydroplanes which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Group, Detroit, MI).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

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

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended to add a temporary § 100.35–0908 to read as follows:

§ 100.35–0908 Budweiser Thunderboat Championship Race—Detroit River.

(a) *Regulated Area.* That portion of the Detroit River lying between Belle Isle and the U.S. shoreline, bound on the west by the Belle Isle Bridge and on the east by a north-south line drawn through the Waterworks Intake Crib Light (LL 1022).

(b) *Special Local Regulations.* (1) The above area will be closed to navigation or anchorage from 7:30 a.m. (local time) until 9:30 p.m. on 9, 10, 11, and 12 June 1988.

(2) An escape zone for recreational craft will also be established from the Rooster Tail Marina out to Lake St. Clair.

(3) Special care shall be exercised by the Master or operator of every vessel proceeding up or down the main channel of the Detroit River between Belle Isle and Windmill Point.

(4) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(5) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(6) Effective Dates: These regulations will become effective on 9 June 1988 and terminate on 12 June 1988.

Dated: May 19, 1988.

A.M. Danielsen,

RADM, U.S. Coast Guard Commander, Ninth Coast Guard District.

[FR Doc. 88–12148 Filed 5–31–88; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 8E3608/R961; FRL-3388-8]

Pesticide Tolerance for 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes 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. This regulation to establish the maximum permissible level for residues of the herbicide in or on the commodity was requested pursuant to a petition by the International Research Project No. 4 (IR-4).

EFFECTIVE DATE: June 1, 1988.

ADDRESS: Written objections, identified by the document control number, [PP 8E3608/R961], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail:

Hoyt Jamerson, Emergency Response and Minor Use Section (TS-767C), Registration Division (TS-767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2310.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of April 28, 1988 (53 FR 15237), in which it was announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had 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.

The 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 the 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.

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

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 tolerance will protect the public health. Therefore, the tolerance is 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 grounds 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: May 23, 1988.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is 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. 88-12102 Filed 5-31-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6791]

Suspension of Community Eligibility; Iowa

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective date shown in this rule because of noncompliance with the revised floodplain management criteria of the NFIP. If FEMA receives documentation that the community has adopted the required revisions prior to the effective suspension date given in this rule, the community will not be suspended and the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATE: June 3, 1988.

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

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the NFIP (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain

management measures with effective enforcement measures.

On August 25, 1986, FEMA published a final rule in the **Federal Register** that revised the NFIP floodplain management criteria. The rule became effective on October 1, 1986. As a condition for continued eligibility in the NFIP, the criteria at 44 CFR 60.7 require communities to revised their floodplain management regulations to make them consistent with any revised NFIP regulation within 6 months of the effective date of that revision or be subject to suspension from participation in the NFIP.

The communities listed in this notice have not amended or adopted floodplain management regulations that incorporate the rule revision. Accordingly, the communities are not compliant with NFIP criteria and will be suspended on the effective date shown in this final rule. However, some of these communities may adopt and submit the required documentation of legally enforceable revised flooplain management regulations after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**. In the interim, if you wish to determine if a particular community was suspended on the NFIP serving contractor.

The Administrator finds that notice and public procedures under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 90- and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

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

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

PART 64—[AMENDED]

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

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

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

§ 64.6 List of eligible communities.

State	Community name	County	Community No.	Effective date
Iowa	Alta Vista, city of	Chickasaw	190065	June 3, 1988.
Do	Alvord, city of	Lyon	190197	Do.
Do	Anita, city of	Cass	190048	Do.
Do	Aredale, city of	Butler	190035	Do.
Do	Bagley, city of	Guthrie	190700	Do.
Do	Baldwin, city of	Jackson	190428	Do.
Do	Bedford, city of	Taylor	190263	Do.
Do	Brayton, city of	Audubon	190920	Do.
Do	Cambridge, city of	Story	190255	Do.
Do	Charlotte, city of	Clinton	190087	Do.
Do	Cherokee, city of	Cherokee	190063	Do.
Do	Clarksville, city of	Butler	190336	Do.
Do	Clive, city of	Polk	190488	Do.
Do	Cultier, city of	Tama	190514	Do.
Do	Correctionville, city of	Woodbury	190286	Do.
Do	Defiance, city of	Shelby	190246	Do.
Do	Earling, city of	Shelby	190247	Do.
Do	East Peru, city of	Madison	190450	Do.
Do	Elk Run Heights, city of	Black Hawk	190019	Do.
Do	Fertile, city of	Worth	190301	Do.
Do	Fort Atkinson, city of	Winneshiek	190284	Do.
Do	Fort Madison, city of	Lee	190184	Do.
Do	Garber, city of	Clayton	190076	Do.
Do	Gilbertville, city of	Black Hawk	190021	Do.
Do	Gladbrook, city of	Tama	190516	Do.
Do	Guthrie Center, city of	Guthrie	190135	Do.
Do	Hamburg, city of	Fremont	190133	Do.
Do	Hiawatha, city of	Linn	190441	Do.
Do	Hinton, city of	Plymouth	190224	Do.
Do	Hornick, city of	Woodbury	190291	Do.
Do	Inwood, city of	Lyon	190598	Do.
Do	Irwin, city of	Shelby	190249	Do.
Do	Janesville, city of	Black Hawk and Bremer.	190023	Do.
Do	Kirkman, city of	Shelby	190250	Do.
Do	Kiron, city of	Crawford	190098	Do.
Do	Lamoni, city of	Decatur	190110	Do.
Do	Lawton, city of	Woodbury	190292	Do.
Do	Lehigh, city of	Webster	190310	Do.
Do	Little Sioux, city of	Harrison	190145	Do.
Do	Unincorporated Areas	Louisa	190193	Do.
Do	Lowden, city of	Cedar	190054	Do.

State	Community name	County	Community No.	Effective date
Iowa	Manning, city of	Carroll	190046	June 3, 1988.
Do	Lytton, city of	Sac and Calhoun	190769	Do.
Do	Lucas, city of	Lucas	190196	Do.
Do	Mapleton, city of	Monona	190208	Do.
Do	Maquoketa, city of	Jackson	190160	Do.
Do	Marquette, city of	Clayton	190182	Do.
Do	Maxwell, city of	Story	190257	Do.
Do	Melrose, city of	Monroe	190465	Do.
Do	Moville, city of	Woodbury	190293	Do.
Do	Newell, city of	Buena Vista	190334	Do.
Do	Oakland, city of	Pottowattamie	190237	Do.
Do	Osterdock, city of	Clayton	190083	Do.
Do	Pleasant Hill, city of	Polk	190489	Do.
Do	Portsmouth, city of	Shelby	190507	Do.
Do	Riverside, city of	Washington	190648	Do.
Do	Roland, city of	Story	190513	Do.
Do	Russel, city of	Lucas	190649	Do.
Do	Sageville, city of	Dubque	190122	Do.
Do	Sheldon, city of	O'Brien	190216	Do.
Do	Sibley, city of	Osceola	190218	Do.
Do	Sioux Center, city of	Sioux	190658	Do.
Do	Smithland, city of	Woodbury	190300	Do.
Do	Spencer, city of	Clay	190071	Do.
Do	Story city, city of	Story	190259	Do.
Do	Sumner, city of	Bremer	190029	Do.
Do	Unionville, town of	Appanoose	190923	Do.
Do	Vail, city of	Crawford	190101	Do.
Do	Victor, city of	Iowa and Poweshiek	190426	Do.
Do	Wall Lake, city of	Sac	190504	Do.
Do	Winfield, city of	Henry	190688	Do.

Harold T. Duryee,
Administrator, Federal Insurance Administration.

Issued: May 25, 1988.

[FR Doc. 88-12162 Filed 5-31-88; 8:45 am]

BILLING CODE 6718-21-M

44 CFR Part 64

[Docket No. FEMA 6790]

Suspension of Community Eligibility; New York et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

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

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

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

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

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

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed

in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

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

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

PART 64—[AMENDED]

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

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

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

§ 64.6 List of eligible communities.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date [1]
Region II—Minimal Conversions				
New York:				
Durham, town of, Greene County	360289	July 22, 1975, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.	6-1-88	June 1, 1988.
Livonia, village of, Livingston County	361458	Aug. 30, 1978, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.	6-1-88	Do.
Roseboom, town of, Otsego County	361421	Feb. 10, 1976, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.	6-1-88	Do.
Westford, town of, Otsego County	361282	Oct. 12, 1976, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.	6-1-88	Do.
Windham, town of, Greene County	361401	Dec. 5, 1980, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.	6-1-88	Do.
Worcester, town of, Otsego County	361283	Jan. 26, 1977, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.	6-1-88	Do.
Region IV				
Tennessee: White House, city of, Sumner County	470339	June 13, 1975, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.	6-1-88	Do.
Region V				
Minnesota: Koochiching County, Unincorporated areas	270233	July 1, 1974, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.	6-1-88	Do.
Wisconsin: Brokaw, village of, Marathon County	550247	Jan. 16, 1975, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.	6-1-88	Do.
Region VI				
Arkansas: Winslow, village of, Washington County	050300	Aug. 7, 1975, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.	6-1-88	Do.
Texas:				
Frankston, city of, Anderson County	480003	Feb. 1, 1977, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.	6-1-88	Do.
Idalou, town of, Lubbock County	480916	May 19, 1978, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.	6-1-88	Do.
Region I—Regular Conversions				
Connecticut:				
Lebanon, town of, New London County	090155	May 27, 1976, Emerg.; June 3, 1988, Reg.; June 3, 1988, Susp.	6-3-88	June 3, 1988.
Voluntown, town of, New London County	090143	July 17, 1975, Emerg.; June 3, 1988, Reg.; June 3, 1988, Susp.	6-3-88	Do.
Washington, town of, Litchfield County	090057	July 24, 1975, Emerg.; June 3, 1988, Reg.; June 3, 1988, Susp.	6-3-88	Do.
Maine:				
Norridgewock, town of, Somerset County	230178	May 7, 1975, Emerg.; June 3, 1988, Reg.; June 3, 1988, Susp.	6-3-88	Do.
West Paris, town of, Oxford County	230100	June 24, 1975, Emerg.; June 3, 1988, Reg.; June 3, 1988, Susp.	6-3-88	Do.
Massachusetts: Concord, town of, Middlesex County	250189	June 9, 1972, Emerg.; June 15, 1979, Reg.; June 3, 1988, Susp.	6-3-88	Do.
New Hampshire: Meredith, town of, Belknap County	330006	Aug. 4, 1975, Emerg.; June 3, 1988, Reg.; June 3, 1988, Susp.	6-3-88	Do.
Vermont: Grand Isle, town of, Grand Isle County	500223	Aug. 25, 1975, Emerg.; June 3, 1988, Reg.; June 3, 1988, Susp.	6-3-88	Do.
Region III				
Pennsylvania:				
Bethel, town of, Armstrong County	421300	Aug. 8, 1975, Emerg.; June 3, 1988, Reg.; June 3, 1988, Susp.	6-3-88	Do.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date [1]
New Florence, borough of, Westmoreland County	420890	Feb. 25, 1977, Emerg.; June 3, 1988, Reg.; June 3, 1988, Susp.	6-3-88	Do.
West Virginia: Barboursville, village of, Cabell County	540017	May 13, 1975, Emerg.; June 3, 1988, Reg.; June 3, 1988, Susp.	6-3-88	Do.
Region IV				
Florida:				
Arcadia, city of, DeSoto County	120073	Aug. 12, 1975, Emerg.; June 3, 1988, Reg., June 3, 1988, Susp.	6-3-88	Do.
DeSoto County, Unincorporated areas	120072	Aug. 26, 1975, Emerg.; June 3, 1988, Reg.; June 3, 1988, Susp.	6-3-88	Do.
Tennessee: Huntington, town of, Carroll County	470022	Mar. 10, 1975, Emerg., June 3, 1988, Reg.; June 3, 1988, Susp.	6-3-88	Do.
Region V				
Ohio: Muskingum County, Unincorporated areas	390425	Apr. 28, 1976, Emerg.; June 3, 1988, Reg.; June 3, 1988, Susp.	6-3-88	Do.
Region X				
Oregon:				
Baker County, Unincorporated areas	410001	Sept. 12, 1974, Emerg., June 3, 1988, Reg., June 3, 1988, Susp.	6-3-88	Do.
Baker, city of, Baker County	410002	July 25, 1974, Emerg., Apr. 17, 1984, Reg., June 3, 1988, Susp.	6-3-88	Do.
Sumpter, city of, Baker County	410007	Dec. 13, 1977, Emerg., Sept. 24, 1984, Reg., June 3, 1988, Susp.	6-3-88	Do.
Region I—Regular Conversions				
Maine: Oakland, town of, Kennebec County	230242	Sept. 16, 1975, Emerg., June 15, 1988, Reg., June 15, 1988, Susp.	6-15-88	June 15, 1988
Vermont:				
Norwich, town of, Windsor County	500295	June 7, 1974, Emerg., June 15, 1988, Reg., June 15, 1988, Susp.	6-15-88	Do.
St. Albans, town of, Franklin County	500219	Feb. 5, 1976, Emerg., June 15, 1988, Reg., June 15, 1988, Susp.	6-15-88	Do.
Underhill, town of, Chittenden County	500042	June 10, 1975, Emerg.; June 15, 1988, Reg.; June 15, 1988, Susp.	6-15-88	Do.
Weathersfield, town of, Windsor County	500156	Sept. 22, 1975, Emerg.; Sept. 15, 1985, Reg.; June 15, 1988, Susp.	6-15-88	Do.
Wells, town of, Rutland County	500271	June 25, 1975, Emerg.; June 15, 1988, Reg.; June 15, 1988, Susp.	6-15-88	Do.
Windsor, town of, Windsor County	500159	Aug. 16, 1974, Emerg.; Sept. 28, 1979, Reg.; June 15, 1988, Susp.	6-15-88	Do.
Region V				
Ohio: Moreland Hills, village of, Cuyahoga County	390118	June 1, 1979, Emerg.; June 15, 1988, Reg.; June 15, 1988, Susp.	6-15-88	Do.
Wisconsin:				
Neosho, village of, Dodge County	550104	June 9, 1975, Emerg.; June 15, 1988, Reg.; June 15, 1988, Susp.	6-15-88	Do.
Princeton, city of, Green Lake County	550171	June 26, 1975, Emerg.; June 15, 1988, Reg.; June 15, 1988, Susp.	6-15-88	Do.
Region VI				
Louisiana: Many, town of, Sabine Parish	220158	Aug. 5, 1974, Emerg.; June 15, 1988, Reg.; June 15, 1988, Susp.	6-15-88	Do.
Region II—Minimal Conversions				
New York: Millport, village of, Chemung County	360155	Aug. 26, 1975, Emerg.; June 15, 1988, Reg.; June 15, 1988, Susp.	6-15-88	Do.
Region III				
West Virginia: Romney, town of, Hampshire County	422496	Apr. 25, 1975, Emerg.; June 15, 1988, Reg.; June 15, 1988, Susp.	6-15-88	Do.
Region IV				
Georgia: Haralson County, Unincorporated areas	130495	Jan. 16, 1987, Emerg.; June 15, 1988, Reg.; June 15, 1988, Susp.	6-15-88	Do.
Region VII				
Kansas: Mitchell County, Unincorporated areas	200225	Nov. 3, 1975, Emerg.; June 15, 1988, Reg.; June 15, 1988, Susp.	6-15-88	Do.

[1] Date certain Federal assistance no longer available in special flood hazard areas.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Harold T. Duryee,
Administrator, Federal Insurance Administration.

[FR Doc. 88-12161 Filed 5-31-88; 8:45 am]
BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-283; RM-5684]

Radio Broadcasting Services; Holyoke, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 222C2 to Holyoke, Colorado, as that community's first local broadcast service, in response to a petition filed by Virginia Cutforth. With this action, the proceeding is terminated.

DATES: Effective July 8, 1988; The window period for filing applications on Channel 222C2 at Holyoke, Colorado, will open on July 11, 1988, an close on August 10, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530, regarding the allocation. Questions related to the window 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. 87–283, adopted April 18, 1988, and released May 25, 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 by adding Holyoke, Channel 222C2, under Colorado.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–12185 Filed 5–31–88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-259; RM-5693]

Radio Broadcasting Services; Steamboat Springs, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition filed on behalf of Steamboat Springs Broadcasting, Inc., this document substitutes Channel 245C2 for Channel 244A at Steamboat Springs, Colorado, and modifies the license of Station KSBT(FM) accordingly, thereby providing that community with its first expanded coverage FM service. With this action, the proceeding is terminated.

EFFECTIVE DATE: July 8, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–259, adopted April 18, 1988, and released May 25, 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 under Colorado, by substituting Channel 245C2 for Channel 244A at Steamboat Springs.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–12184 Filed 5–31–88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-416; RM-5770]

Radio Broadcasting Services; Cannelton, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 275A to Cannelton, Indiana, as that community's first local FM service, in response to a petition filed by Martin L. Hensley. With this action, the proceeding is terminated.

DATES: Effective July 8, 1988; The window period for filing applications on Channel 275A at Cannelton, Indiana, will open on July 11, 1988, and close on August 10, 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. 87–416, adopted April 18, 1988, and released May 25, 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 under Indiana, by adding Cannelton, Channel 275A.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–12189 Filed 5–31–88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-509; RM-6056]

Radio Broadcasting Services; Lisbon, NH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Montpelier Broadcasting, Inc., allocates Channel 244A to Lisbon, New Hampshire, as the community's first local FM service. Channel 244A can be allocated to Lisbon in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 44–12–48 and West Longitude 71–54–48. Canadian concurrence has been received since Lisbon is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: Effective July 8, 1988. The window period for filing applications will open on July 11, 1988, and close on August 10, 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. 87–509, adopted April 18, 1988, and released May 25, 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.

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 FM Table of Allotments for New Hampshire is amended by adding Lisbon, Channel 244A.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–12186 Filed 5–31–88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87–510; RM–6057]

Radio Broadcasting Services; Canton, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Craig L. Fox, allocates Channel 268A to Canton, New York, as the community's second local FM service. Channel 268A can be allocated to Canton in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.3 kilometers (4.5 miles) southeast to avoid a short-spacing to Station CHEQ–FM, Channel 266C1, Smiths Falls, Ontario, Canada, and to Station CBOF7F, Channel 271A, Brockville, Ontario, Canada. The coordinates for this allotment are North Latitude 44–33–35 and West Longitude 75–05–54. Canadian concurrence in the allotment has been received since Canton is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: Effective July 8, 1988. The window period for filing applications will open on July 11, 1988, and close on August 10, 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. 87–510, adopted April 18, 1988, and released May 25, 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. § 73.202(b), the FM Table of Allotments is amended by revising the entry for Canton, New York, to add Channel 268A.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–12187 Filed 5–31–88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87–279; RM–5823]

Television Broadcasting Services; Lewisburg, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots UHF Television Channel 59- to Lewisburg, West Virginia, as that community's first commercial television service, at the request of Sid Shumate. 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 not affected by the freeze. With this action this proceeding is terminated.

EFFECTIVE DATE: July 8, 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. 87–279, adopted April 18, 1988, and released May 25, 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

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 [Amended]

2. § 73.606(b), the Table of Allotments is amended by adding Channel 59 for Lewisburg, West Virginia.

Steve Kaminer,

Deputy Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 88-12183 Filed 5-31-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 30

[Docket No. 45632 Notice No. 88-7]

Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule; Request for comments.

SUMMARY: This rule implements provisions in the Continuing Resolution on the Fiscal Year 1988 Budget, Pub. L. No. 100-202, section 109(a) and the Airport and Airway Safety and Capacity Expansion Act of 1987, Pub. L. No. 100-223, section 115, that prohibit the expenditure of Federal funds for procuring construction services and products for U.S. public works projects from Japanese firms (and, potentially, nationals of other countries).

DATES: This final rule is effective June 1, 1988. Comments should be received by July 18, 1988. Late-filed comments will be considered to the extent practicable.

ADDRESS: Comments should be sent to Docket Clerk, Docket No. 45632, U.S. Department of Transportation, 400 7th Street SW., Room 4107, Washington, DC, 20590. Comments may be reviewed by the public at this location from 9:00 a.m. through 5:30 p.m., Monday through Friday. Commenters wishing the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date stamp the card and return it to the commenter.

FOR FURTHER INFORMATION CONTACT: Roberta Gabel, Deputy Assistant General Counsel for Environmental, Civil Rights, and General Law (202-366-9161), or Michael Jennison, Office of the Assistant General Counsel for International Law (202-366-5621), Office of the Secretary of Transportation, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Near the close of its first session, the 100th Congress enacted provisions affecting competition for public works contracts, the Continuing Resolution on the Fiscal Year 1988 Budget, Pub. L. No. 100-202, section 109(a) (signed December 22, 1987) [the Continuing Resolution] and the Airport and Airways Safety and Capacity Expansion Act of 1987, Pub. L. No. 100-223, section 115 (signed December 30, 1987) [the Airport Safety Act]. In brief, these two statutes prohibit the use of certain Federal funds for procuring construction services and products for U.S. public works projects from Japanese firms (and, potentially, nationals of other countries). The purpose of this final rule is to govern application of the restrictions to procurements made by grantees of DOT modal administrations.

Section 109(a) of the Continuing Resolution provides as follows:

> None of the funds appropriated for fiscal year 1988 by this Resolution or any other law may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative [as denying fair and equitable market opportunities for products and services of the United States in procurement or bidding].

Section 115 of the Airport Safety Act provides as follows:

> No funds made available under this Act may be used to fund any project which uses any product or service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative [as denying fair and equitable market opportunities for products and services of the United States in procurement or bidding].

These statutory restrictions are wide-ranging, affecting many millions of dollars of public works projects. This regulation is intended to give the statutes uniform implementation throughout DOT assisted programs. The restrictive provisions in the two statutes differ in only minor respects from each other.

The Continuing Resolution on the FY 1988 budget combined into one package all FY 1988 appropriation bills for the entire Federal government. Section 109(a) prohibits the obligation or expenditure of funds appropriated for FY 1988 by the Continuing Resolution or any other law for any contract for the construction, alteration, or repair of any public building or public work in the United States with any contractor or subcontractor of a foreign country that is identified by the United States Trade Representative (U.S.T.R.) or by the Continuing Resolution as discriminating against U.S. firms in conducting procurements for public works projects. Similarly, section 115 of the Airport Safety Act prohibits use of any funds made available by it to fund any project, whether in the United States or overseas, that uses any product or service of a foreign country that is identified by the U.S.T.R. as discriminating against U.S. firms in conducting procurements for public works projects.

On December 30, 1987, U.S.T.R. published an initial list that identified one country, Japan, as denying fair and equitable market opportunities to U.S. firms. 52 FR 49,244 (1987). U.S.T.R. has recently conducted an initial survey and determined not to add any other countries to the list. 53 FR 2140 (1988). U.S.T.R. will conduct another survey after 180 days and, if appropriate, add other countries.

The effect of the U.S.T.R. list is that for the rest of FY 1988 contractors or subcontractors of Japan and any other country that may subsequently be listed will be barred from Federal or federally-funded public works procurements, including projects funded by the Airport Safety Act. Countries on the list may be removed from it through procedures specified in the two statutes; if there were no country on the list, these rules would have no effect.

The Department interprets the restriction in the Continuing Resolution as commencing December 22, 1987, and expiring September 30, 1988. In contrast, the restrictions in the Airport Safety Act are tied to the funds made available by that Act. The applicability of the two restrictions, however, is not mutually exclusive, and the restriction in the Continuing Resolution applies by its terms to all Federally funded airport and airway projects and contracts entered into after December 22, 1987.

Both provisions cover not only foreign firms but also foreign-owned U.S. firms and U.S. firms that are directly or indirectly foreign-controlled. They also cover supplies and products produced in foreign countries that are incorporated into public works projects.

This regulation defines the projects to which the restrictions apply and provides guidelines for determining whether ownership or control of a contractor or subcontractor is by citizens of a country subject to the restrictions. Once it has been determined that the restrictions apply to

a particular public works project, the Department, subject to certain exceptions discussed below, will give them the same substantive effect, regardless of whether it is the Continuing Resolution, the Airport Safety Act, or both that triggers them.

On March 17, 1988, the Office of Federal Procurement Policy, in the Office of Management and Budget, issued guidance to all agencies concerning the implementation of section 109 of the Continuing Resolution. This regulation comports to that guidance.

Description of Key Sections

Section 30.3

This section describes the applicability of the two statutes to DOT programs. Section 109(a) of the Continuing Resolution extends to all DOT agencies and all recipients of DOT funds. It applies to all projects for which funds are obligated or contracts are awarded during fiscal year 1988, including projects and contracts under all DOT financial assistance programs. Because the Department is interpreting the restriction to apply to funds appropriated in previous fiscal years but obligated or expended in FY 1988 (see discussion of § 30.7 below), it is also interpreting the restriction as ending at the close of FY 1988. Section 109(a) applies by its terms only to public buildings and public works projects in the United States, its territories and possessions. It also applies to FAA-funded airport and airway construction projects. U.S. overseas bases, installations, and embassies are not subject to the restriction.

Section 115 of the Airport Safety Act, on the other hand, extends to all projects for which funds are made available by that Act, whether or not the contract is awarded during fiscal year 1988 and whether or not the project is located within the United States. It applies to all contracts entered into under grants authorized by the Airport Safety Act. It covers both products and services.

The restrictions cover all architect, engineering, and construction services for public projects and public works, under the terms of the statutes. They also include all products or goods used during the construction, alteration, or repair of public projects and public works. Note, however, that the restrictions do not cover construction equipment or vehicles that are provided to the project but that do not become part of a delievered structure, product, or project. Moreover, the restrictions of the Continuing Resolution (and it differs in this respect from the Airport Safety Act) do not apply to vehicles to be used in the operation of the finished project. For the purposes of this rule, the Department considers rail rolling stock and buses, for example, to be detachable equipment that can be moved from one project to another, and thus not subject to a restriction aimed at *construction contractors.*

Section 30.5

The provisions contained in the Continuing Resolution prohibit the Department from obligating or expending funds for entering into contracts or subcontracts after December 22, 1987, and before October 1, 1988, with contractors or subcontractors of Japan and any other country that may be subsequently listed by the U.S.T.R. The Department is only authorized to waive this restriction when the President or the Secretary, on a case-by-case basis, determines a waiver to be in the public inerest. Notice of waivers granted will be published in the **Federal Register.** To the extent prohibited contracts were entered into after December 22, 1987, and prior to the promulgation of these regulations, the Department is statutorily prohibited from utilizing its appropriations to pay contractors or to reimburse its grantees for their payments under such contracts.

In implementing this restriction, the Department sees only the following alternatives to be available to a grantee who has entered into a contract that is prohibited by section 109(a): 1) the prohibited contract may be canceled at no cost to the Government; 2) a Secretarial waiver may be requested; or 3) the grantee may choose to forego Federal reimbursement for costs associated with the particular contract, subcontract, or product.

Section 30.7

The Continuing Resolution applies to funds "appropriated for fiscal year 1988 by [that] Resolution or any other law." In paragraph (a) of this section, the Department interprets the word "appropriation" to include trust fund moneys for which Congress sets obligation ceilings. This is consistent with general principles of fiscal law. The Comptroller General has held that a statute that authorizes the collection and credit of money to a particular fund for specified purposes, and that makes the fund available for obligation and expenditure as authorized, constitutes an appropriation. In addition, the legislative history of section 109(a) clearly demonstrates that Congress intended the provision to apply to Federally funded transit and airport projects. Many of these projects can be funded through the use of either general fund or trust fund moneys. It would be inconsistent with Congressional intent and arbitrary to apply this provision only to projects that happen to be funded out of the General funds of the Treasury and not apply it to similar projects that happen to be trust funded.

The Department also considered whether the term "appropriated for fiscal year 1988" should apply only to funds that were specifically appropriated for FY 1988 or should also apply to funds appropriated in earlier years and still available for obligation or expenditure. The Department has decided that the latter interpretation is appropriate. The limitation applies to funds appropriated by "any other law" as well as to funds appropriated in the Continuing Resolution for FY 1988. Prior years' appropriations appear to be such "other laws." The legislative history of section 109(a) also makes clear that Congress intended that immediate action be taken in order to encourage the Japanese government to open up its public works construction projects to U.S. construction firms. As most of the Department's funds that are used for public works construction are multi-year, many contracts will be entered into during FY 1988 utilizing funds that were appropriated in prior years but that are still available for obligation or expenditure. It would frustrate Congressional intent to interpret the language as only applying to funds specifically appropriated in FY 1988. Finally, while the Department interprets the Continuing Resolution as allowing the unrestricted expenditure of funds that were appropriated in prior years and obligated under contracts entered into prior to December 22, 1987, the Department interprets the restriction as nonetheless applying to any new subcontracts entered into under those contracts during the effective period of the restrictions, that is, after December 22, 1987, and before October 1, 1988.

In paragraph (f) of this section the Department used 50 percent of the value of total cost of the product as the level at or above which a product is considered to have its origin in a foreign country because the 50 percent figure is mentioned in the legislative history of section 109(a). In executing their certification clauses, the Department expects contractors and suppliers of goods and services to exercise due diligence and good faith in determining the origin of products subject to this rule.

Section 30.9

The key provision of section 30.9 is that a firm 50 percent or more of which is owned by a firm from Japan or another country designated by U.S.T.R. is considered to be foreign-owned for the purpose of the contracting restrictions of this part. The Department has chosen 50 percent as the cutoff for ownership by citizens of countries on the U.S.T.R. list, in order to provide some predictability and certainty of application.

In addition to the 50 percent ownership requirement, the Department has decided to deem a partnership to be controlled, directly or indirectly, by a citizen of a foreign country if any general partner is a citizen of that country, because a partnership can be bound, under fundamental principles of agency, by any general partner.

A corporation will be regarded as being of a foreign country if it is organized under the laws of the foreign country or if the number of its directors necessary to constitute a quorum are citizens of the foreign country. Corporate control can be considered to reside in differing blocks of stock for differing purposes. We have chosen to define corporate control as residing in a foreign national or citizen if one or more foreign nationals or citizens control 50 percent or more of the outstanding stock or voting power. This standard is consistent with the definition of control under the Small Business Act.

Although the law of business associations does not generally recognize the joint venture as a separate, distinct category of business entity, many bidders for public works construction contracts are joint ventures, whether partnerships, unincorporated associations, or nonpublicly-traded corporations. Treating a joint venture in the same way as a publicly traded corporation could result in anomalous situations; for example, a foreign-owned corporation might qualify as a joint venturer because it had less than 50 percent of the total project, but could not do the same work as a subcontractor. To avoid that result, the Department will treat all such forms of business essentially as partnerships.

Sections 30.11–15

Section 30.15 provides a model implementing clause, the substance of which is to be inserted in public works contracts. Section 30.13 provides a comparable model provision to be placed in solicitations. Section 30.11 specifies when the two model provisions are to be used.

Section 30.19

In accordance with Congressional intent expressed in the legislative history of the Continuing Resolution, the rule specifies that the restrictions imposed by it are in addition to any other restrictions contained in Federal law, such as the Buy America Act, 41 U.S.C. §§ 10a–10d.

Regulatory Process Matters

This rule is not a major rule under Executive Order 12291, since we do not anticipate that its cost (*i.e.*, the differential in project expenditures using non-Japanese goods and services where Japanese goods and services would otherwise have been used) would exceed $100 million per year. While the rule may increase costs in project expenditures somewhat in the short term, it establishes a framework for retaliating against countries that close their markets to foreign competition. Its objective, therefore, is to provide an incentive for other countries to eliminate their trade barriers, so that they may be removed from the list of countries whose firms will be barred from public works procurements. Ultimately, increased competition among contractors in worldwide markets will increase the productivity and efficiency of contractors doing business in the United States, and create benefits for the economy as a whole.

The rule is a significant rule under the Department's Regulatory Policies and Procedures. Since there is no notice of proposed rulemaking for this rule, the Regulatory Flexibility Act does not apply.

This regulation is likely to have a Federalism impact, under the terms of Executive Order No. 12612, because it will restrict the normal discretion of states and localities to award Federally-assisted contracts in accordance with state and local contracting laws and regulations. For example, a state that normally awards highway contracts to the lowest responsive and responsible bidder will be precluded from awarding the contract to such a bidder if it is Japanese-owned or controlled. This prohibition can increase costs for states, since they would then have to award the contract to a higher bidder. This impact on Federalism is mandated by statute, however, and the Department lacks discretion to avoid it. Consequently, the Department certifies that this regulation has been assessed in light of the principles, criteria, and requirements of Executive Order No. 12612.

The statutes requiring this regulation were enacted and became effective in December 1987. Since that time, it has been contrary to statute for the Department's funds to be used to contract with Japanese-owned or controlled firms. It is essential that the Department publish these regulations quickly, in order to avoid or dispel confusion over the applicability of the statutory requirement to particular contracts and particular firms. A number of contracting actions are currently being delayed because of this problem, and it is necessary in the public interest to end these delays. In addition, this rule concerns public grants and contracts. For these reasons, the Department has determined under 5 U.S.C. 553(a)(2) and 553(b)(B) that notice and a prior opportunity for public comment are not needed for this rule and under 5 U.S.C. 553(d)(3) that the rule may be made effective immediately.

Nevertheless, the Department is requesting comment on the final rule. The Department will consider the comments received and will subsequently publish, as appropriate, amendments to these rules and/or a notice responding to the comments.

List of Subjects in 49 CFR Part 30
Government Contracts.

Issued in Washington, DC, on May 23, 1988.

Jim Burnley,

Secretary of Transportation.

Accordingly, Subtitle A of Title 49, Code of Federal Regulations, is amended by adding to it new Part 30 as follows:

PART 30—DENIAL OF PUBLIC WORKS CONTRACTS TO SUPPLIERS OF GOODS AND SERVICES OF COUNTRIES THAT DENY PROCUREMENT MARKET ACCESS TO U.S. CONTRACTORS

Sec.

Authority: 49 U.S.C. 322(a); Containing Resolution on the Fiscal Year 1988 Budget 109(a), Pub. L. No. 100–202; Airport and Airways Safety and Capacity Expansion Act of 1987, 115, Pub. L. No. 100–223.

§ 30.1 Purpose.

The rules in this part implement section 109(a) of the Continuing Resolution on the Fiscal Year 1988 Budget, Pub. L. No. 100–202 (signed December 22, 1987) [the Continuing Resolution], and section 115 of the Airport and Airways Safety and Capacity Expansion Act of 1987, Pub. L. No. 100–223 (signed December 30, 1987) [the Airport Safety Act]. These rules are intended to give uniform implementation to these statutes throughout DOT procurement and grant programs.

§ 30.3 Applicability.

(a) The restrictions imposed by section 109(a) of the Continuing Resolution extend to all DOT agencies as well as all recipients of DOT funds. The restrictions apply to all projects for which funds are obligated or contracts or subcontracts are awarded during fiscal year 1988, including projects and contracts under all DOT financial assistance programs. The prohibition applies to public buildings and public works projects everywhere in the United States or any territory or possession of the United States. U.S. overseas bases, installations, and embassies are not subject to this part.

(b) The restrictions imposed by section 115 of the Airport Safety Act extend to all projects for which funds are made available by that Act, whether or not the contracts are awarded during fiscal year 1988. The restrictions apply to all contracts entered into under grants authorized by the Airport Safety Act.

(c) This part applies to projects covered by section 109(a) of the Continuing Resolution, section 115 of the Airport Safety Act, or both. Whether one or the other statute or both apply, the effect on the project shall be the same, subject to paragraph (e) of this section.

(d) In addition to construction, alteration, and repair contracts, the restrictions of this part cover all architect, engineering, and other services related to the preparation and performance of construction, alteration, and repair of public projects and public works.

(e) The restrictions of this part also apply to all products used in the construction, alteration, or repair of public projects and public works; *provided, however,* That

(1) The restrictions of this part do not apply to construction equipment or vehicles that do not become part of a delivered structure, product, or project and

(2) Notwithstanding paragraph (c) of this section, the restrictions of section 109(a) of the Continuing Resolution do not apply to vehicles to be used by the project, including, but not limited to, buses, trucks, automobiles, rail rolling stock, and aircraft.

§ 30.5 Effective dates.

The provisions of section 109(a) of the Continuing Resolution apply to contracts (or new subcontracts under existing contracts, whether or not subject to the restriction) entered into after December 22, 1987, its date of enactment, and before October 1, 1988. The provisions of section 115 of the Airport Safety Act apply to contracts funded by the Act and entered into after December 30, 1987, its date of enactment; the restrictions remain effective so long as money provided by the Airport Safety Act is used. Accordingly, any contracts or subcontracts subject to the restrictions of this part entered into with contractors or subcontractors owned or controlled by citizens of subject countries, as defined by §§ 30.7 and 30.9 of this part, since December 22, 1987 shall be canceled at no cost to the Government, subject to the waiver provisions of § 30.17 of this part. All public works or public buildings contracts entered into after December 22, 1987, shall include, or be modified to include, a provision prohibiting subcontracting with citizens of subject countries, as defined by §§ 30.7 and 30.9 of this part.

§ 30.7 Definitions.

(a) "Funds appropriated for FY 1988 by this resolution or any other law," as used in this part with reference to section 109(a) of the Continuing Resolution, means all appropriated and trust funds available to DOT, its modal administration, or their grantees for expenditure or obligation in fiscal year 1988, regardless of the fiscal year in which the funds were appropriated.

(b) "Funds made available by this Act," as used in this part with reference to section 115(a) of the Airport Safety Act, means all funds, including trust funds, made available to DOT, its modal administrations, or their grantees by that Act, whether or not the contracts to be funded are awarded during fiscal year 1988.

(c) "Contractor and subcontractor" means any person, other than a supplier of products, performing any architectural, engineering, or other service directly related to the preparation for or performance of the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States.

(d) "Contractor or subcontractor of a foreign country" means any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by one or more citizens or nationals of a foreign country.

(e) "Service of a foreign country" means any service provided by a person that is a citizen or national of a foreign country, or is controlled by one or more citizens or nationals of a foreign country.

(f) "Product of a foreign country" means construction materials, i.e., articles, materials, and supplies brought to the construction site for incorporation into the public works project. A product is considered to have been produced in a foreign country if more than fifty percent of the total cost of the product is allocable to production or manufacture in the foreign country.

(g) "Foreign country" means a country included in the list of countries that discriminate against U.S. firms published by the U.S.T.R.

§ 30.9 Citizenship—direct or indirect control.

A contractor, subcontractor, or person providing a service shall be considered to be a citizen or national of a foreign country, or controlled directly or indirectly by citizens or nationals of a foreign country, within the meaning of this part.

(a) If 50 percent or more of the contractor or subcontractor is owned by one or more citizens or nationals of the foreign country;

(b) If the title to 50 percent or more of the stock of the contractor or subcontractor is held subject to trust or fiduciary obligation in favor of one or more citizens or nationals of the foreign country;

(c) If 50 percent or more of the voting power in the contractor or subcontractor is vested in or exercisable on behalf of one or more citizens or nationals of the foreign country;

(d) In the case of a partnership, if any general partner is a citizen or national of the foreign country;

(e) In the case of a corporation, if the number of its directors necessary to constitute a quorum are citizens of the foreign country or the corporation is organized under the laws of the foreign country or any subdivision, territory, or possession thereof; or

(f) In the case of a contractor or subcontractor that is a joint venture, if any participant meets any of the criteria in paragraphs (a) through (e) of this section.

§ 30.11 Use of solicitation provisions and contract clauses.

(a) Unless the President or the Secretary waives the restrictions imposed by section 109(a) of the Continuing Resolution in accordance with § 30.17 of this part, the contracting officer shall insert a clause similar to the clause at § 30.15, Restrictions on Federal Public Works Projects, in contractions and solicitations, if—

(1) The contract is awarded on or after December 22, 1987, and before October 1, 1988; and

(2) The contract obligates funds appropriated for use in FY 1988 by the Continuing Resolution or any other law; and

(3) The contract is for the acquisition of construction, alteration and repair, architectural, engineering, or other services directly related to the preparation for, or performance of, construction, alteration, and repair for Federal public works projects inside the United States, U.S. territories, or U.S. possessions.

(b) Unless the Secretary waives the restrictions imposed by section 115 of the Airport Safety Act in accordance with § 30.17 of this part, the contracting officer shall insert a clause similar to the clause at § 30.15, Restrictions on Federal Public Works Projects, in contracts and solicitations relating to any project for which funds, including grant funds, are made available by that Act, whether or not the contract is awarded during fiscal year 1988.

(c) Any contract already awarded that should have contained the clause prescribed in paragraph (a) or (b) of this section, but did not, shall be modified to include the clause. In the event that the contracting officer is unable to modify such contract, the contract shall be canceled at no cost to the Government, unless a waiver is granted in accordance with § 30.17 of this part.

(d) Contracting officers shall insert a provision similar to the solicitation provision at § 30.13 of this part, Restrictions on Public Works Projects—Certification, in solicitations containing the clause at § 30.15 of this part, Restrictions on Federal Public Works Projects.

(e) Any solicitation issued before December 22, 1987, that will result in the award of a contract covered by paragraph (a) of this section after December 22, 1987, and before October 1, 1988, and that should have contained a provision similar to that § 30.13 of this part, but did not, shall be amended to include the provision if the contract has not yet been awarded.

§ 30.13 Restriction on Federal public works projects—certification.

As prescribed in § 30.11(c) of this part, the contracting officer shall insert the following provision in solicitations containing the clause at § 30.15, *Restrictions on Federal Public Works Projects:*

Restrictions on Federal Public Works Projects—Certification

(a) Definitions. The definitions pertaining to this provision are those that are set forth in 49 CFR 30.7–30.9.

(b) Certification. By signing this solicitation, the Offeror certifies that with respect to this solicitation, and any resultant contract, the Offeror—

(1) Is [ ] is not [ ] a contractor of a foreign country included on the list of countries that discriminated against U.S. firms published by the Office of the United States Trade Representative (U.S.T.R.);

(2) Has [ ] has not [ ] entered into any contract or subcontract with a subcontractor of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.; and

(3) Has [ ] has not [ ] entered into any subcontract for any product to be used on the Federal public works project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

(c) Applicability of 18 U.S.C. 1001. This certification in this solicitation provision concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

(d) Notice. The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(e) Restrictions on contract award. No contract will be awarded to an offeror (1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or (2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or (3) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list; unless a waiver to these restrictions is granted by the President of the United States or the Secretary of Transportation. (Notice of the granting of a waiver will be published in the **Federal Register.**)

(f) System. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (b) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(g) Subcontracts. The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this solicitation provision, including this paragraph (g), in each solicitation issued under such contract.

[end of provision]

§ 30.15 Restrictions on Federal public works projects

The contracting officer shall insert the following clause in solicitations and contracts as prescribed at § 30.11(a) through (b) of this part:

Restrictions on Federal Public Works Projects

(a) *Definitions.* The definitions pertaining to this clause are those that are set forth in 49 CFR 30.7–30.9

(b) *General.* This clause implements the procurement provisions contained in the Continuing Resolution on the Fiscal Year 1988 Budget, Pub. L. No. 100–202, and the Airport and Airway Safety and Capacity Expansion Act of 1987, Pub. L. No. 100–223.

(c) *Restrictions.* The Contractor shall not knowingly enter into any subcontract under this contract: (1) with a subcontractor of a foreign country included on the list of countries that discriminate against U.S. firms published by the United States Trade Representative (U.S.T.R.); or (2) for the supply of any product for use on the Federal Public works project under this contract that is produced or manufactured in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

(d) *Certification.* The Contractor may rely upon the certification of a prospective subcontractor that it is not a subcontractor of a foreign country included on the list of countries that discriminates against U.S. firms published by the U.S.T.R. and that products supplied by such subcontractor for use on the Federal public works project under this contract are not products of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R., unless the contractor has knowledge that the certification is erroneous.

(e) Erroneous certification. The certification in paragraph (b) of the provision entitled "Restriction on Federal Public Works Projects—Certification," is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may cancel this contract for default at no cost to the Government.

(f) Cancellation. Unless the restrictions of this clause are waived as provided in paragraph (e) of the provision entitled "Restriction on Federal Public Works Projects—Certification," if the Contractor knowingly enters into a subcontract with a subcontractor that is a subcontractor of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or that supplies any

product for use on the Federal public works project under this contract of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R., the Contracting Officer may cancel this contract for default, at no cost to the Government.

(g) Subcontracts. The Contractor shall incorporate this clause, without modification, including this paragraph (g) in all solicitations and subcontracts under this contract:

Certification Regarding Restrictions on Federal Public Works Projects—Subcontractors

(1) The Offeror/Contractor, by submission of an offer and/or execution of a contract certifies that the Offeror/Contractor is (i) not an Offeror/Contractor owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the United States Trade Representative (U.S.T.R.) or (2) not supplying any product for use on the Federal public works project that is produced or manufactured in a foreign country included on the list of foreign countries that discriminate against U.S. firms published by the U.S.T.R.

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER TITLE 18, UNITED STATES CODE, SECTION 1001.

(2) The Offeror shall provide immediate written notice to the Contractor if, at any time, the Offeror learns that its certification was erroneous by reason of changed circumstances.

(3) The Contractor shall not knowingly enter into any subcontract under this contract: (i) with a subcontractor of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.; or (ii) for the supply of any product for use on the Federal public works project under this contract that is produced or manufactured in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. The contractor may rely upon the certification in paragraph (g)(1) of this clause unless it has knowledge that the certification is erroneous.

(4) Unless the restrictions of this clause have been waived under the contract for the Federal public works project, if a contractor knowingly enters into a subcontract with a subcontractor that is a subcontractor of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or that supplies any product for use on the Federal public works project under this contract that is produced or manufactured in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R., the Government Contracting Officer may direct, through higher-tier contractors, cancellation of this contract at no cost to the Government.

(5) Definitions. The definitions pertaining to this clause are those that are set forth in 49 CFR 30.7–30.9.

(6) The certification in paragraph (g)(1) of this clause is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Government Contracting Officer may direct, through higher-tier Contractors, cancellation of this subcontract at no cost to the Government.

(7) The Contractor agrees to insert this clause, without modification, including this paragraph, in all solicitations and subcontracts under this clause.

[end of clause]

§ 30.17 Waivers.

(a) The Secretary may waive the restrictions imposed by section 115 of the Airport Safety Act on the use of a product or service in a project if the Secretary determines that:

(1) Application of the restriction to such product, service, or project would not be in the public interest;

(2) Products or services of the same class or kind are not produced or offered in the United States, or in any foreign country that is not listed by the U.S.T.R. in sufficient and reasonable available quantities and of a satisfactory quality; or

(3) Exclusion of such product or service from the project would increase the cost of the overall project contract by more than 20 percent.

(b) The President or the Secretary may waive the restrictions imposed by section 109(a) of the Continuing Resolution with respect to an individual contract if the President or the Secretary determines that such action is necessary in the public interest, on a contract-by-contract basis. The Secretary may apply the factors listed in paragraphs (a)(2) and (a)(3) of this section in determining whether a waiver is in the public interest.

(c) The authority of the President or the Secretary to issue waivers may not be delegated. The Department shall publish notice of any waiver granted pursuant to this part by the President or the Secretary in the **Federal Register** within ten days. The notice shall describe in detail the contract involved, the specific reasons for granting the waiver, and how the waiver meets the criteria of this section.

§ 30.19 Buy American Act.

The restrictions of this part are in addition to any other restrictions contained in Federal law, including the Buy American Act, 41 U.S.C. 10a–10d, and Buy American provisions in legislation governing DOT provisions. Normal evaluation methods for implementing the provisions of the Buy American Act in contracts for the construction, alteration, or repair of public buildings or public works will be applied after determining the offeror's eligible for award on the basis of application of the provisions in this part.

[FR Doc. 88–12118 Filed 5–31–88; 8:45 am]
BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Addition of Species by the Governments of Thailand and Honduras to Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service adds 24 species of wildlife to 50 CFR 23.23, pursuant to their addition to Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. These additions were initiated at the requests of Honduras and Thailand. Appendix III comprises species subject to regulation in particular party nations that have requested the cooperation of other Parties in controlling trade in such species.

DATES: These additions to Appendix III became effective on April 13, 1987 (Honduras), as previously announced, and December 7, 1987 (Thailand). Therefore, this rule is effective June 1, 1988.

ADDRESSES: Send correspondence concerning this document to the Office of Scientific Authority; Mail Stop: 527, Matomic Building; U.S. Fish and Wildlife Service; Department of the Interior; Washington, DC 20240. Background materials will be available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, in Room 537, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane at the above address, or telephone 202–653–5948.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild

Fauna and Flora (Convention) regulates international trade in certain species of animals and plants. Species for which trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily now threatened with extinction may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other species). Appendix III includes native species that any Party nation identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties in controlling trade.

Trade in Appendix III species, including any readily recognizable part or derivative, requires the issuance of either an export permit, a re-export certificate, or a certificate of origin. Export permits are required if the shipment originates from the nation that has added the species in Appendix III. Export to or from other Party nations requires presentation of "certificates of origin," or, in the case of re-export, "certificates from the nation of re-export," which show that the specimen was processed in that nation and/or is being re-exported.

This rule includes in the Code of Federal Regulations additions to Appendix III requested by the Governments of Honduras and Thailand, pursuant to Article XVI, paragraph 1 of the Convention. Honduras requested the addition of six species of mammals, seven of birds, and nine of reptiles, and Thailand requested the addition of two species of birds (names are given below under "Regulation Promulgation"). The Convention's Secretariat notified all Party nations of the additions of Honduras on January 13, 1987, and of the additions of Thailand on September 8, 1987. In accordance with Article XVI, paragraph 2 of the Convention, these additions took effect 90 days after notification—April 13, 1987, for those of Honduras, and December 7, 1987, for those of Thailand.

Any Party may enter a reservation at any time on any species added to Appendix III, thereby exempting itself from implementing the Convention for that particular species. The limitations on the effect of reserving in alleviating importers and exporters from permit requirements was thoroughly discussed in a previous **Federal Register** document (52 FR 43924, November 17, 1987). The U.S. Fish and Wildlife Service (Service) announced the additions to Appendix III by Honduras and requested public comments on whether to enter reservations for any of the involved species (52 FR 35741; September 23, 1987). Comments were not previously solicited for reservations on the additions requested by Thailand, in accordance with the procedural change discussed in the next section of this document.

Public Comments

No comments were received in response to the Service's announcement and consideration of reservations on the addition of species to Appendix III by Honduras (52 FR 35741). As previously proposed (52 FR 43924; November 17, 1987) and adopted (53 FR 9945; March 28, 1988, with printing errors corrected in 53 FR 12497; April 14, 1988), the Service has made a procedural change to usually request comments on reservations only at the time Appendix III additions of species to the Convention are included in the Code of Federal Regulations. With regard to the addition of the two species of pittas, the Service does not perceive any significant biological, trade, or legal issue that would warrant recommending the entering of a reservation, and thus, it is unlikely comments on reservations would be received or reservations taken, as discussed more fully in the March 28, 1988, **Federal Register** (53 FR 9945) notice on the procedural change. For these reasons and because reservations can be entered at any future time if deemed appropriate, good cause exists to omit the proposed rule notice and public comment process, because it would be unnecessary and contrary to the public interest (5 U.S.C. 553(b)).

Therefore, the Service announces for the first time the listing of the two species of pittas by Thailand. The Service does not propose to recommend a reservation and would consider doing so only if valid and compelling reasons are presented to show that implementation of the listing would be contrary to the interests or laws of the United States. Inasmuch as reservations to Appendix III can be entered *at any time*, the Service solicits comments on taking of reservations, especially on the listing of the *Pitta* spp. for which no opportunity for comment was previously provided. The Service will consider any comments received and recommend entering reservations if appropriate.

Because the species covered in this notice have already been added to Appendix II of the Convention, and because of other reasons mentioned above, the Service finds that good cause exists for making this rule effective upon publication (5 U.S.C. 553 (d)).

Note.—The Department has determined that amendments to the Convention's Appendices, which result from actions of the Parties to the Convention, do not require the preparation of Environmental Assessments as defined under authority of the National Environmental Policy Act (42 U.S.C. 4321–4347). The Department also has determined that this list action is not a rule for purposes of Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) Notices on Appendix III species listings do not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

This document was prepared by Ron Nowak, Staff Zoologist, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Marine mammals, Plants (agriculture), Treaties.

Regulation Promulgation

For reasons set forth above, the Service amends § 23.23 of Title 50, Code of Federal Regulations, as follows:

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249; and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 *et seq.*

§ 23.23 [Amended]

2. Amend § 23.23(f) by revising the existing entries for particular species on the list to read as follows:

* * * * *

(f) * * *

Species	Common name	Appendix	Date listed (month/day/year)
CLASS AVES:	BIRDS:		
Order Anseriformes:	Duck, Geese, Swans, Screamers:		
Dendrocygna bicolor (=*D. fulva*)	Fulvous whistling duck	III (Ghana and Honduras)	2/26/76
Order Galliformes:	Pheasants, Curassows, Megapodes, Hoatzins:		
Crax rubra	Great curassow	III (Costa Rica, Guatemala, and Honduras)	10/28/76
Ortalis vetula	Plain chachalaca	III (Guatemala, and Honduras)	4/23/81

3. Amend § 23.23(f) by adding the following species of animals in alphabetical order under the appropriate taxonomic category:

Species	Common name	Appendix	Date listed (month/day/year)
CLASS MAMMALIA:	MAMMALS:		
Order Rodentia:	Rodents:		
Agouti (=*Cuniculus*) *paca*	Greater paca, spotted cavy	III (Honduras)	4/13/87
Dasyprocta punctata	Common agouti	III (Honduras)	4/13/87
Sphiggurus mexicanus (=*Coendou mexicanus*).	Middle American prehensile-tailed porcupine (coendou).	III (Honduras)	4/13/87
Order Carnivora:	Carnivores: Cats, Bears, etc.		
Eira barbara	Tayra	III (Honduras)	4/13/87
Nasua nasua (=*N. narica*)	Common coati, coatimundi	III (Honduras)	4/13/87
Potos flavus	Kinkajou	III (Honduras)	4/13/87
CLASS AVES:	BIRDS:		
Order Anseriformes:	Ducks, Geese, Swans, Screamers:		
Cairina moschata	Muscovy duck	III (Honduras)	4/13/87
Dendrocygna autumnalis	Black-bellied whistling duck	III (Honduras)	4/13/87
Order Falconiformes:	Hawks, Falcons, Vultures, Eagles:		
Sarcoramphus papa	King Vulture	III (Honduras)	4/13/87
Order Galliformes:	Pheasants, Curassows, Megapodes, Hoatzins:		
Penelope purpurascens	Northern crested guan	III (Honduras)	1/13/87
Order Passeriformes:	Perching Birds:		
Pitta guajana	Blue-tailed pitta, Banded pitta	III (Thailand)	12/7/87
Pitta gurneyi	Gurney's pitta	III (Thailand)	12/7/87
CLASS REPTILIA:	REPTILES:		
Order Squamata:	Lizards, Snakes:		
Agkistrodon bilineatus	Cantil	III (Honduras)	4/13/87
Bothrops asper	Terciopelo	III (Honduras)	4/13/87
Bothrops nasutus	Rainforest hognosed pit-viper	III (Honduras)	4/13/87
Bothrops nummifer	Jumping pit-viper	III (Honduras)	4/13/87
Bothrops ophryomegas	Slender hognosed pit-viper	III (Honduras)	4/13/87
Bothrops schlegelii	Eyelash palm pit-viper	III (Honduras)	4/13/87
Crotalus durissus	Tropical rattlesnake, cascabel	III (Honduras)	4/13/87
Micrurus diastema	Atlanta coral snake	III (Honduras)	4/13/87
Micrurus nigrocinctus	Black-banded coral snake	III (Honduras)	4/13/87

Dated: May 19, 1988.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-12215 Filed 5-31-88; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 71146-8001]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the total allowable catch (TAC) for flounder in the Eastern Regulatory Area has been reached. The Secretary of Commerce (Secretary) is therefore prohibiting further retention of flounder in this area. This action is necessary to limit the harvest of flounder by U.S. fishermen to the amount specified for TAC. It is intended to comply with the existing regulatory regime authorized under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

DATES: Effective May 27, 1988, 12 Noon, Alaska Daylight Time. Comments are invited for June 10, 1988.

ADDRESS: Comments should be addressed to James W. Brooks, Acting Regional Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 021668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, Fishery Management Biologist, NMFS, 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP was developed by the North Pacific Fishery Management Council (Council). Regulations implementing the FMP are at 50 CFR Part 672. Section 672.20 of the regulations establishes an optimum yield range of 116,000–800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska, which is further divided annually into TACs for each of the target groundfish species and species groups. Under § 672.20(c)(1), preliminary domestic annual processing (DAP) will be the amount harvested during the previous year plus any

additional amount the Secretary finds will be harvested by the U.S. fishing industry for delivery to U.S. processors in 1988. For 1988, TACs were established for each of the target groundfish species and species groups and apportioned among the regulatory areas and districts (53 FR 890, January 14, 1988).

Section 672.2 of the regulations defines the Eastern Regulatory Area in the Gulf of Alaska. The TAC for flounders in this area is 100 mt. The DAP for flounders was set equal to TAC. This amount was approved by the Secretary following recommendations made by the Council at its December 8–11, 1987, meeting. These recommendations were based on a NMFS-conducted survey of U.S. processors as to how much DAP will be harvested in 1988. The survey indicated that only 100 mt would be harvested. The Secretary approved this amount, which was based on the best available information.

Fishermen have been conducting trawl fisheries in the Eastern Regulatory Area mainly for various rockfish species. Some flounder species have also been caught, which have either been discarded or retained. The 100-mt TAC for flounders has been reached.

Under § 672.20(c)(2)(i), if the Regional Director determines that the TAC for any target species has been reached, the Secretary will publish a notice in the **Federal Register** prohibiting directed fishing for that species and declaring such species to be a prohibited species under § 672.20(e). The Secretary, therefore, is prohibiting fishing for flounder in the Eastern Regulatory Area, effective 12:00 noon Alaska Daylight Time on May 27, 1988, and is declaring flounder to be a prohibited species until 12:00 midnight, Alaska Standard Time, December 31, 1988.

In making this determination, he has considered the following information as required under § 672.20(c)(2)(iii):

(A) The ABC for flounder in the Eastern Regulatory Area is 86,700 mt, based on the 1988 Resource Assessment Document for the Gulf of Alaska Groundfish Fishery. The currently specified TAC of 100 mt is only 0.1 percent of the ABC. The condition of the flounder stock is good and, therefore, no risk of biological harm to flounder will occur as a result of non-retainable incidental catches while trawling for other species.

(B) Some costs will be imposed on authorized users of flounder species as a result of flounder being declared a prohibited species. The Regional Director, however, in discussing the closure with segments of the affected industry, has determined that the costs will be small relative to earnings in the ongoing directed fisheries.

(C) No impact will occur on the socioeconomic well-being of the other domestic fisheries, because no restraints are being imposed on them as a result of this closure other than costs associated with sorting and discarding at sea further catches of flounder.

This closure is effective after it has been publicized for 48 hours through an agreement between the United States government and the Alaska Department of Fish and Game, but no earlier than May 27, 1988, Noon, Alaska Daylight Time. Public comments on this notice may be submitted to the Regional Director at the address above until June 10, 1988.

Classification

This action is taken under §§ 672.20 and 672.22 and is in compliance with Executive Order 12291. NOAA finds for good cause that providing prior opportunity for public comment on this notice is impractical and contrary to the public interest. Immediate effectiveness of this notice is necessary to prevent the TAC amount specified for flounder from being grossly exceeded and its effective date should not be delayed.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 26, 1988.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management.

[FR Doc. 88–12233 Filed 5–26–88; 3:57 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 53, No. 105
Wednesday, June 1, 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

Commodity Credit Corporation

7 CFR Part 1446

[Amdt. 2]

Peanut Warehouse Storage Loans and Handler Operations for the 1986 Through 1990 Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed Rule.

SUMMARY: This proposed rule would amend, for the 1988 through 1990 crops of peanuts, the requirements with respect to the furnishing of letters of credit by handlers to insure their compliance with the regulations governing handling and use of additional peanuts. The proposed rule sets forth standards for determining the amount of increase required in letters of credit based on performance record.

DATES: Comments must be received on or before July 1, 1988.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to this notice will be made available for public inspection in Room 5750, South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David L. Kincannon, Peanut Operations Branch, Tobacco and Peanuts Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013, telephone 202–382–0152.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures, Executive Order 12291, and Secretary's Memorandum No. 1512–1, and has been classified "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local government agencies, or geographical 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. The information collection requirements contained in this regulation and information requests authorized by this regulation have been reviewed and approved by the Office of Management and Budget (OMB) under OMB Number 0560–0024.

The title and number of the Federal assistance program to which this rule applies are: Title—Commodity Loans and Purchases, Number—10.051, as found in the Catalog of Federal Dometic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject mater of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

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

Section 359(p)(3) of the Agricultural Adjustment Act of 1938 requires that a handler submit adequate financial guarantees to ensure the handler's compliance with the obligation to export additional peanuts. Section 1446.106 of the regulations set forth the requirements for the submission by handlers of letters of credit, and the minimum amounts thereof, dependent upon whether the handler selects physical or nonphysical supervision. The regulations provide for increasing the amount of letter of credit required for a handler who has a history of violations of the provisions of the regulations, but no guidelines are set for determining the amount of the increase.

This rule proposes amending § 1446.106 to set forth such guidelines.

The proposed rule would leave minimum letter of credit levles unchanged. The minimum, when the handler selects nonphysical supervision, would remain equal to the difference in the average support levels for quota and additional peanuts for the crop year multiplied by the pounds equal to 15 percent of the pounds of additional peanuts shown on contacts submitted by the handler for approval. If physical supervision were selected, the minimum would stay at the support differential multiplied by 10 percent of the pounds contracted.

The proposed rule would require the amount of letter of credit to be increased for handlers in accordance with the following procedure: Generally, the percentage of contracted pounds to which the support differential would be applied would be increased by 10 percent for each of the preceding three years in which the handler, or a related individual or entity, was asessed a penalty for violations of the regulations. Thus, if there were violations for all three preceding years, and the handler chose nonphysical supervision, the support differential would be multiplied by 45 percent (15 percent plus 3 times 10 percent) of the pounds of additional peanuts shown on contracts submitted by the handler for approval.

There would be several exceptions.

First, where the penalties have been paid, violations for a particular preceding crop year would not be considered if, for all violations for that year: (1) The violations were not substantive (as defined in the proposal), or (2) the total pounds of additional peanuts involved in the violation was less than 100,000 pounds.

Second, the increase in the contracted pounds percentage would be 5 percent instead of 10 percent for crop years in which, for all violations for that crop year: (1) The penalties were reduced by the Executive Vice President, CCC, and paid, or (2) less than 120 days had passed since the penalty assessments were made by the CCC Contracting Officer.

Third, the amount of the letter of credit otherwise required would be increased by the amount of any unpaid penalty for any violation for any crop

year, which had been outstanding n than 120 days since the initial assessment by the Contracting Officer. However, increases for non-payment could be waived if adequate security for payment is presented.

Letter of credit determinations would, under the proposal, be made based on the facts as they are determined by CCC to exist on June 1 of the relevant crop year. However, the amount required could be reduced, if subsequent developments warranted.

It has been determined, pending comment, that this system for increasing the amount of the required letter of credit will provide for reasonable differentiation between handlers based on their performance record and adequately discourage misuse of contract additional peanuts.

List of Subjects in 7 CFR Part 1446

Loan programs—Agriculture, Peanuts, Price support programs, Warehouse, Handlers.

Proposed Rule

For the reason set out in the preamble, Title 7, Subtitle B, Chapter XIV, Part 1446, Subpart-Peanut Warehouse Storage Loans and Handler Operations for the 1986 through 1990 Crops, is proposed to be amended as follows.

PART 1446—[AMENDED]

1. The authoraity citation for Subpart-Peanuts Warhouse Storage Loans and Handler Operations for the 1986 through 1990 Crops is revised to read as follows:

Authority: 15 U.S.C. 714b and c; 7 U.S.C. 1441, 1421 *et seq.*; 7 U.S.C. 1359, 1375.

2. Section 1446.106 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1446.106 Letter of credit.

* * * * *

(b) *Increased letter of credit based on performance record.* For the 1988 through 1990 crop years, the amount of the letters of credit required to be submitted under paragraph (a) of this section by any handler who has a poor performance record, as evidenced by previous penalty assessments for violataions of the provisions of this part, or who is associated with another handler who has such a record shall be increased to an amount CCC determines necessary to assure compliance with this part, such amount of increase to be determined in accordance with the guidelines set forth in paragraph (c) of this section.

(c) *Guidelines for increasing letter of credit.* If the handler and/or related entity was assessed penalties for program violations for any of the previous three crop years, the percentage of the pounds of contaract peanuts, to which the support differential specified in paragraph (a) of this section shall be applied, shall be increased by 10 percent except that:

(i) Previous penalty assessments which have been paid shall not be considered for:

(A) Violations other than violations involving the importation of additional peanuts, or the failure to properly disposed of, or document, the disposal of additional peanuts; and

(B) Violations for any crop year in which the total violations by the handler and/or related individuals or entities involved less than 100,000 pounds of peanuts.

(ii) The increase in the percentage of contracted peanuts to which the support differential is applied which is attributable to violations for a particular crop shall be 5 percent rather than 10 percent if, for all violations for the crop year:

(A) The penalties were reduced by the Executive Vice President, CCC, and paid; or

(B) Less than 120 days, or such further period as established by the Executive Vice President, have passed since the penalty assessment was made by CCC Contracting Officer.

(2) If there are penalties assessed against the handler and/or related individual or entity for any crop year for any violation of this part of any kind (including, but not limited to those identified in paragraph (c)(1)(i) of this section) which remain unpaid more than 120 days after the assessment was made by the CCC Contracting Officer, the amount of the letter of credit otherwise required by this paragraph for the 1988 and subsequent crops shall be increased by the unpaid amount.

(3) Reference in this paragraph to unpaid penalties shall include associated unpaid interest and unpaid late payment charges.

(4) Letter of credit determinations under this paragraph for the 1988 and subsequent crop years shall be made based upon the facts as they exist on June 1 of the calendar year in which the letter of credit is to be supplied. However, the Executive Vice President, CCC, in his discretion, may waive this requirement upon the presentment of adequate security.

* * * * *

Signed at Washington, DC on May 25, 1988.

Milton Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 88-12194 Filed 5-31-88; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Part 1944

Revision of Part 1944, Subpart J, Section 504 Rural Housing Loans and Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise its regulation for Section 504 loans and grants. This action is necessary to update the regulation and incorporate revisions to the Agency's authorizing statutes made by the 1983 Housing Amendments. The intended effect of the proposed revision is to increase the total amount of assistance available, expand loan purposes and eligibility requirements, allow for the payment of application packaging fees, authorize a waiver of personal resources, and, for assistance over $7500, require appraisals, property insurance, credit investigations, title clearance and loan closings.

DATES: Comments must be received on or before July 31, 1988.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address. The collection of information requirements contained in this rule have been submitted to OMB for review under Section 3504(h) of the Paperwork Reduction Act of 1980. Submit any comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 22053.

FOR FURTHER INFORMATION CONTACT: James A. Weibel, Senior Loan Officer, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5346, South Agriculture Building, Washington, DC 20250, Telephone 202-382-1485.

SUPPLEMENTARY INFORMATION: This action was reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to be nonmajor, because there is no substantial change from practices under existing rules that would have an annual effect on the economy of $100 million or more. There is no major increase in cost or prices for consumers, individual industries, Federal, State or local 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.

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, Mr. Vance L. Clark, Administrator of the Farmers Home Administration, has determined that this action will not have a significant economic impact on a substantial number of small entities because, in terms of the total number of rural communities, less than 100 will be affected annually.

This program/activity is listed in the Catalog of Federal Domestic Assistance under number 10.417. For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V, 48 FR 19115, June 24, 1983, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

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

Background

The Housing Amendments of 1983 revised the Agency's authorizing statutes for the Section 504 Rural Housing Loan and Grant program. The proposed regulation updates and incorporates those revisions to comply with the law and congressional intent.

The statute changes authorize providing assistance to improve or modernize dwellings independent of the removal of hazards, and allows the Secretary to determine the appropriate maximum amount of assistance available. Also, the requirement that the applicant be unable to qualify for a Section 502 loan was deleted. Subsequently, the proposed regulation changes involve increasing the total amount of assistance available, expanding loan purposes and broadening eligibility requirements.

Other major changes and revisions include requiring credit reports, appraisals, property insurance, title clearance and loan closings when the loan amount is over $7500. Numerous definitions have been deleted, and unless otherwise specified, are defined in 7 CFR Part 1944, Subpart A. Also, there is the addition of a provision for a waiver of the amount of personal resources needed, and the loan or grant purposes are expanded to include payment of reasonable application packaging fees.

While the entire regulation is rewritten and being published, many sections are not changed. The revised or added sections which effect program objectives and intent are discussed in the following material.

Discussion

1. In § 1944.451, loan objectives and purposes are expanded to allow for repairs to improve or modernize houses without the removal of health or safety hazards.

2. In § 1194.453, numerous definitions are deleted and the terms used are defined in CFR Part 1944, Subpart A, unless otherwise specified.

3. A provision is added in § 1194.456 to allow a reasonable packaging fee as an authorized loan or grant purpose.

4. In § 1194.457, the total life-time assistance available for loans is increased from $7,500 to $15,000. Total grant assistance, however, remains at $5,000.

5. In § 1944.458, program eligibility requirements are broadened by deleting the requirement that applicants be unable to obtain assistance through the Agency's Section 502 rural housing program and the requirement eased regarding the amount of personal resources needed to authorize waivers wehn applicants are experiencing unusually high medical expenses.

6. As a result of the increased amount of loan assistance, requirements are added for credit investigations (§ 1944.467(c)), appraisals (§ 1944.463(d)), property insurance (§ 1944.464(b)), title clearance and loan closings (§ 1944.463).

List of Subjects in 7 CFR Part 1944

Aged, Grant programs—Housing and community development, Loan programs—Housing and community development.

For reasons set out in the preamble, FmHA proposes to amend Chapter XVIII, Title 7 of the Code of Federal Regulations as follows:

PART 1944—HOUSING

1. The authority citation for Part 1944 continues to read as follows:

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

Subpart J—Section 504 Rural Housing Loans and Grants

2. As proposed §§ 1944.451–1944.500 are revised to read as follows:

Subpart J—Section 504 Rural Housing Loans and Grants

Sec.

* * * * *

Subpart J—Section 504 Rural Housing Loans and Grants

§ 1944.451 General.

This subpart sets forth the policies and procedures and delegates authority for making initial and subsequent Rural Housing (RH) loans and/or grants to individuals under Section 504(a) of Title V of the Housing Act of 1949, as amended. The objective of the Section 504 loan/grant program is to assist eligible, very low income, owner-occupants repair single family homes located in rural areas. Repairs may be made to improve or modernize the home, to make it safer and more sanitary, or to remove health and safety hazards. Grants are only available for repairs that remove health or safety hazards. Homes repaired with Section 504 loan or grant funds must be modest in size and design.

§ 1944.452 Equal Credit Opportunity.

Farmers Home Administration (FmHA) assistance and services will not be denied to any person based on race, sex, national origin, color, religion,

marital status, age, handicap (provided the applicant possesses the capacity to enter into a legally binding contract), receipt of income from public assistance, or because an applicant has, in good faith, exercised any right under the Consumer Credit Protection Act.

§ 1944.453 Definitions.

The terms used in this subpart are defined in Subpart A of Part 1944 of this chapter unless otherwise specified.

(a) *Hazard.* A condition of the home or site which jeopardizes the health or safety of the occupants and/or the members of the community.

(b) *Major hazard.* A condition of the home or site so severe that it is unfit for habitation.

(c) *Mobile Home.* A mobile home is an older manufactured unit often referred to as a "trailer," designed to be used as a dwelling but built prior to the enactment of Pub. L. 96–399 [October 8, 1980].

§§ 1944.454–1944.455 [Reserved]

§ 1944.456 Loan and grant purposes.

Section 504 grant funds may be used only to pay costs for repairs and improvements which will remove identified health or safety hazards. Dwellings repaired with Section 504 loan or grant funds need not be brought to agency development standards or thermal performance standards, nor must *all* of the existing hazards be removed provided the dwelling does not continue to have major health or safety hazards after the planned repairs are made. All work shall be in accordance with local codes and standards. When potentially hazardous equipment or materials (e.g. woodburning stoves) are being installed, all materials and installations shall be in accordance with applicable development standards of Subpart A of Part 1924 of this chapter. Authorized loan and grant purposes include but are not limited to the following:

(a) Installation or repair of sanitary water and waste disposal systems, together with related plumbing and fixtures, which will meet local health department requirements. Water supply and sewage disposal systems should be determined acceptable under Subparts A and C of Part 1924 of this chapter. However, those requirements may be waived by the State Director provided:

(1) The County Supervisor determines that the identified health hazard is severe and that the requirements in paragraph (a) of this section cannot be met, and

(2) The State Director agrees with the determination of the County Supervisor that the planned work is necessary and the requirements of paragraph (a) of this section (other than local health department requirements) are impractical.

(b) Payment of reasonable connection fees or prorata installation costs for utilities (i.e., water, sewer, electricity or gas) which are required to be paid by the applicant and which cannot be paid from other funds.

(c) Energy conservation measures such as:

(1) Insulation; and

(2) Combination screen-storm windows and doors.

(d) Repair or replacement of the heating system including installing alternative systems such as woodburning stoves or space heaters, when appropriate.

(e) Electrical wiring.

(f) Repair of, or provision for, structural supports.

(g) Repair or replacement of the roof.

(h) Replacement of deteriorated siding.

(i) Payment of incidental expenses such as surveys, title clearance, loan closing, and architectural or other technical services.

(j) Necessary repairs to mobile/manufactured homes provided:

(1) The applicant owns the home and site and has occupied the home prior to filing an application with FmHA.

(2) The mobile/manufactured home is on a permanent foundation or will be put on a permanent foundation with Section 504 funds. A permanent foundation will be either:

(i) A full below-grade foundation, or

(ii) A home on blocks, piers, or some similar type foundation, with skirting, and anchoring with tie-downs.

(3) The mobile/manufactured home is in need of repairs to remove health or safety hazards.

(k) Additions to dwellings with grant funds (conventional, manufactured or mobile) only when it is clearly necessary to remove health or safety hazards to the occupants.

(l) Payment of application packaging fees if all of the following conditions are met:

(1) The services provided results in significant financial savings to the Government, either directly or by reducing the workload involved in processing applications or loans/grants,

(2) The charges are reasonable, considering,

(i) The amount and purpose of the assistance,

(ii) The repayment ability of the recipient, and

(iii) The cost of similar services in the same or a similar rural area; and

(3) The packager is not receiving other compensation for the services, such as, a real estate commission, grant funds, etc.

§ 1944.457 Loan and grant restrictions.

(a) *Maximum loan or grant.*

(1) Lifetime assistance to any individual for initial or subsequent Section 504 loans may not exceed a cumulative total of $15,000.

(2) Lifetime assistance to any individual for initial or subsequent Section 504 grants may not exceed a cumulative total of $5,000.

(3) Transferees assuming Section 504 loans are limited in the same manner to subsequent loans in amounts not to exceed the difference between the unpaid principal balance of the debt assumed and $15,000.

(4) Document the amount of assistance provided each borrower/grantee on a list of Section 504 recipients and retain it in the office operational file. Maintenance of the list will permit destruction of closed Section 504 assistance case folders as prescribed in § 2033.10(b)(4)(i) of FmHA Instruction 2033–A (available in any FmHA office). The list must include the following information recorded at the time a Section 504 loan/grant is made.

(i) Borrower or grantee name, address, and case number.

(ii) Name of co-owner(s), if any.

(iii) Amount of the loan and/or grant.

(iv) Date loan and/or grant was made.

(b) *Limitation on use of loan or grant funds.* Section 504 loan or grant funds may not be used to:

(1) Assist in the construction of a new dwelling.

(2) Make repairs to a dwelling of such poor condition that when the repairs are completed, the dwelling will continue to be a major hazard to the safety and health of the occupants.

(3) Move a mobile/manufactured home from one site to another.

(4) Pay for any off-site improvements except for those purposes in § 1944.456(b) of this subpart.

(5) Refinance any debt or obligation of the borrower/grantee other than obligations incurred for items covered by § 1944.456 of this subpart entered into after date of application.

(c) *Limitation on use of grant funds.* In addition to the restrictions in paragraph (b) of this section, section 504 grant funds may not be used to make changes to the dwelling for cosmetic or convenience purposes, unless the work is directly related to the removal of hazards. Cosmetic and convenience changes might include, but are not limited to:

(1) Painting;

(2) Paneling;
(3) Carpeting;
(4) Improving clothes closets or shelving;
(5) Improving kitchen cabinets;
(6) Air conditioning; or
(7) Landscape plantings.

§ 1944.458 Eligibility requirements.

Section 504 applicants must meet the following requirements:

(a) Meet the requirement of §§ 1949.9 (c) and (d) of Subpart A of this part.

(b) Meet the requirements of § 1944.9(f) of Subpart A of this part. However, general credit requirements may be less stringent than those for Section 502 loans. For example, very low-income applicants often have higher short-term debt loans in relation to income than persons with higher incomes, and many times this will cause more late payments to be shown in their credit history. Such a fact does not necessarily show lack of credit worthiness. Such a determination will depend on the particular situation involved and the amount of assistance requested.

(c) Own and occupy a single family dwelling located in a rural area that is in need of repair. Evidence of ownership will be presented as outlined in § 1944.459 (a) of this subpart.

(d) Be unable to obtain financial assistance from other non FmHA credit or grant sources, and lack personal resources that can be utilized to meet their needs. Personal resource such as cash, stocks, bonds, certificates of deposit, real estate assets, etc., will be considered in the following manner:

(1) Evaluation of personal resources will exclude the dwelling and a minimum adequate site, personal automobile, household goods, and liquid assets up to $5000.

(2) In cases where the family is experiencing unusually high medical expenses, the District Director may waive requiring the use of liquid assets down to $5000.

(3) Personal assets which the applicant's livelihood are dependent upon (a major source of income essential to pay basic living expenses) or assets that are not economically feasible to liquidate may be exempted by the District Director.

(e) Have an adjusted annual income at the time of loan/grant approval, as defined in § 1944.6 of Subpart A of this part, which does not exceed the applicable very low-income limits in Exhibit C of Subpart A of this part (available in any FmHA office).

(f) Have sufficient and dependable income to repay the Section 504 loan. An applicant whose income is not sufficient to fully meet the loan payments may obtain as a co-signer(s) a person(s) with dependably available income which will be sufficient to repay the loan. Form FmHA 431–3, "Household Financial Statement and Budget," will be prepared for Section 504 applicants to the extent necessary to determine repayment ability, and/or when it appears the applicant needs credit counseling.

(g) For any grant involved, be an applicant/co-applicant(s) that is 62 years of age or older and unable to repay a Section 504 loan amoritzed over the maximum number of years for that cost of the repairs. In all cases involving a Section 504 grant, Form FmHA 431–3 will be completed before approval to determine loan repayment ability, and grant amount. The budget must evidence the applicant's lack of repayment ability for that part of the assistance to be received as a grant.

§§ 1944.459–1944.460 [Reserved]

§ 1944.461 Security and other requirements.

(a) *Evidence of ownership.* Applicants must submit evidence of ownership for retention in the case file. This evidence may be a certified or photocopy of the original ownership instrument. County Supervisors may seek advice from the Regional Attorney when necessary to determine the validity or adequacy of the evidence of ownership.

(1) The following will represent ownership:

(i) Full marketable title.

(ii) A land purchase contract.

(iii) An undivided interest in the property to be repaired when:

(A) The County Supervisor has no reason to believe the applicant's position of owner/occupant will be jeopardized as a result of the improvements to be made with loan/grant funds.

(B) In the case of a loan to be secured by a mortgage, any co/owner living or planning to live in the household will sign the mortgage.

(C) In the case of a grant, any co-owner living or planning to live in the household will sign the repayment agreement.

(iv) A leasehold interest in the property to be repaired. When the applicant's "ownership" interest in the property is based on a leasehold interest, the lease must be in writing and a copy must be included in the case file. The unexpired portion of the lease must not be less than 1½ times the term of the Promissory Note or, in the case of a grant, a period of not less than 5 years. The lease must also meet the requirements of § 1944.15(a)(iv) of Subpart A of this part.

(v) A life estate, with the right of present possession, control, and beneficial use of the property.

(vi) Grazing permits or land assignments may be accepted only for unsecured loans or grants made to Indians living on a reservation, when historically the documents have been used by the Tribe and have had the comparable effect of a life estate.

(2) The following may also be accepted as evidence of ownership:

(i) Any instrument, whether or not recorded, which is commonly considered evidence of ownership.

(ii) Evidence that the applicant is listed as the owner of the property by the local taxing authority and that real estate taxes for the property are paid by the applicant.

(iii) Affidavits by others in the community that the applicant has occupied the property as the apparent owner for a period of not less than 10 years, and is generally believed to be the owner.

(b) *Real estate mortgage.* A Section 504 loan of $2,500 or more will be secured by a mortgage on the property (or any leasehold interest or land purchase contract) being improved with the loan. The total of all debts secured by the property may not exceed the value of the security. In the case of possessory rights on an Indian reservation or State-owned land, exceptions to the usual security requirements must be made in accordance with § 1944.18(b) (2) or (3) of Subpart A of this part.

(1) *Subsequent loans.* Subsequent loans will be secured by a mortgage when the subsequent loan plus any outstanding loan balance is $2,500 or more. When a real estate mortgage is required, each outstanding promissory note will be described in the mortgage.

(2) *Undivided ownership interest.* Security on an undivided ownership interest may exclude mortgaging the co-owner's interests when:

(i) One or more of the co-owners are not legally competent, cannot be located, or the ownership rights are divided among such a large number of co-owners that it is not practical for all interests to be mortgaged;

(ii) The interests excluded do not represent more than 50 percent of all ownership interests;

(iii) All legally competent co-owners using or occupying the dwelling sign the mortgage; and

(iv) The loan does not exceed the portion of market value of the property

represented by the interests of the owners who sign the mortgage.

(3) *Life estates.* Security on a life estate ownership interest may exclude mortgaging the remaindermen's interests when:

(i) One or more of the remaindermen are not legally competent, cannot be located, or the remainder rights are divided among such a large number of remaindermen that it is not practical to obtain the signatures of all remaindermen;

(ii) The interests excluded do not represent more than 50 percent of all remainder interests;

(iii) All legally competent remaindermen using or occupying the dwelling sign the mortgage; and

(iv) The loan does not exceed the portion of market value of the property represented by the interests of the remaindermen who sign the mortgage.

(4) *Mobile/manufactured homes.* State Directors will, after obtaining the assistance of the Regional Attorney, issue a State Supplement outlining the procedure necessary to obtain adequate security when making a loan of $2,500 or more on a property which includes a mobile/manufactured home.

(c) *Note only.* Loans of less than $2,500 may be unsecured. In such cases, only a promissory need be obtained.

(d) *Repayment agreement.* (1) Grant recipients will be required to sign a repayment agreement (see Exhibit A of this subpart, which is available in any FmHA office) which requires that if the property is sold by the grantee or the grantee's heirs or estate before the end of a three-year period, the full amount of the grant will be repaid to the Government. When ownership is a life estate interest, or an undivided ownership interest in the property, all co-owners living or planning to live in the household must sign the repayment agreement.

(2) In the event the property is sold before the expiration of the three-year period the County Supervisor will service the account to the extent possible and practical, to protect the Government's interest and promote FmHA's recovery of grant funds.

§ 1944.462 Rates and terms.

(a) The interest rate for all Section 504 loans is one (1) percent per annum.

(b) Loan terms will not exceed 20 years and should be based on the borrower's repayment ability. Loans made in combination with grants should be amortized for 20 years, thereby maximizing the loan amount while minimizing the grant amount.

§ 1944.463 Technical services.

(a) *Planning and performing development work.* Cost estimates or bid prices for the removal of health or safety hazards will be based on the list of essential repairs prepared by the FmHA representative after an inspection visit of the property. Exhibit B of this subpart of a similar format will be used to submit bids or cost estimates. Borrower-method construction dockets will contain written cost estimates describing materials and specifications with a complete cost breakdown on materials and labor for each item of development. For development work covered by contract, Form FmHA 1924–6, "Construction Contract", and Form FmHA 1924–2, "Description of Materials," will be used. In the case of substantial rehabilitation or new construction, Form FmHA 1924–19, "Builder's Warranty," is required.

(1) Specifications of materials must include details such as quantity, quality, sizes, grades, styles, model numbers, etc., as appropriate. Each item developed must be described specific enough to clearly identify the work and material to be furnished.

(2) Contractors, builders, or tradespersons must be competent to peform the specified development work. If the County Supervisor is unfamiliar with the work of the selected contractor-repairer, she/he will contact homeowners who recently had development work completed by the Contractor regarding their satisfaction with the job, and if possible, inspect the work. Inquiries or inspections concerning contractors' performance will be made only to protect FmHA security interests.

(b) *Development plans.* The County Supervisor will prepare Form FmHA 1924–1, "Development Plan," according to § 1924.5(b) of Subpart A of Part 1924 of this chapter.

(c) *Inspections.* In addition to the initial property inspection, the authorized FmHA representative will make development inspections of work in place as follows:

(1) On new construction, such as room additions, make inspections in compliance with § 1924.9 of Subpart A of Part 1924 of this chapter.

(2) Make a final inspection on individual major items of development before issuing payment.

(3) Make a final inspection on all Section 504 loan and grant development work before payment-in-full.

(4) Record all development inspections on Form FmHA 1924–12, "Inspection Report."

(d) *Appraisal.* An appraisal of the real estate or leasehold interest is required when the total indebtedness (including land sale contracts) is more than $7,500, or when the County Supervisor or loan approving official is uncertain of the adequacy of the security for the loan. When an appraisal is not made, the County Supervisor will document the estimated market value of the property in the case file.

(1) When a mortgage will be taken on a nonfarm tract or small farm, or on a leasehold interest in a nonfarm tract or small farm, or on a leasehold interest in a nonfarm tract or small farm, an appraisal of the security will be made in acordance with Subpart C of Part 1922 of this chapter. A small farm for the purpose of this subpart is a farm as defined in § 1944.2(g) of Subpart A of this part which has value primarily as a residence rather than for the production of agricultural commodities, and repayment of the RH loan is not dependent on farm income.

(2) When a mortgage will be taken on farm tract or leasehold interest in a farm tract an appraisal of the security will be made in accordance with Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1).

(e) *Title clearance requirements.*

(1) Total FmHA indebtedness of $7,500 or less, secured with a real estate mortgage, need not meet the title requirements of Part 1807 of this chapter (FmHA Instruction 427.1). In those cases the County Supervisor will use all practical means to verify that title and lien information is complete and accurate. In most cases, this can be accomplished by a search of the courthouse records.

(2) Total FmHA indebtedness or more than $7,500, secured with a real estate mortgage, title clearance and legal services for making and closing the loan will be provided in accordance with Part 1807 of this chapter (FmHA Instruction 427.1).

§ 1944.464 Insurance requirements.

All applicants will be counseled and encouraged to have adequate hazard and flood insurance.

(a) *National flood insurance.* Repairs of less than $7,500 under this subpart are considered nonsubstantial improvements under the National Flood Insurance Program, and, therefore, flood insurance is not required.

(b) *Real property insurance.* Buildings on the property which are to be taken as security for assistance of more than $7,500 will be insured in accordance with Subpart A of Part 1806 of this chapter (FmHA Instruction 426.1).

§§ 1944.465–1944.466 [Reserved]

§ 1944.467 Processing applications.

(a) *Application.* Application for Section 504 assistance will be made on Form FmHA 410–4, "Application for Rural Housing Loan Assistance (Non Farm Tract)," or Form FmHA 410–1, "Application for FmHA Services," which are available at local County Offices, and processed in accordance with Subpart A of Part 1910 of this chapter.

(1) When the request for assistance involves the removal of health or safety hazards with grant funds, the County Supervisor must visit the property to determine and identify what repairs are essential.

(2) The visit will be made prior to the applicant's eligibility determination, unless the applicant is clearly not eligible, and will be documented in the running case record identifying the existing hazards and essential repairs needed.

(b) *Family budget.* (1) Form FmHA 431–3 will be prepared for Section 504 applicants when:

(i) Grant eligibility determinations are made; or

(ii) The application form does not contain sufficient information to determine whether or not the applicant has repayment ability; or

(iii) Credit counseling is needed.

(2) When determining repayment ability, the budget will consider and account for items such as:

(i) Non-cash benefits (food stamps, scholarships, free clothing, meals on wheels, free transportation, etc.) which help reduce the applicant's budgeted expenses. Receipt of benefits will be properly documented, and the appropriate budgeted expenses will be reduced to reflect these benefits.

(ii) Income from sources not used to determine adjusted income such as earnings from employment of minors or from a full-time student, who is neither the applicant nor spouse, foster care payments, or any similar income. These sources of income will be considered to the extent that they are used to offset budgeted expenses even though not included in "annual income."

(c) *Credit investigation.* Credit reports will be used for all loans of more than $7,500, and will be ordered in accordance with Subpart B of Part 1910 (available in any FmHA office). For loans of $7,500 or less it is the policy not to order credit reports, if the County Supervisor determines a credit report is necessary, it will be ordered at no cost to the applicant. Credit reports will not be used for grant assistance.

(d) *Verification of income.* Income from employment will be verified by use of Form FmHA 1910–5, "Request for Verification of Employment." Income from Social Security (SS), Supplemental Security Income (SSI), welfare, pension and other similar sources will be verified by the most convenient method for reasonable accuracy.

(e) *Cost estimates.* Written cost estimates will be required as outlined in § 1944.463 of this subpart for all work to be performed. If, in the judgement of the County Supervisor the cost estimates are not competitive, additional cost estimates will be obtained. All cost estimates will be prepared and submitted according to § 1944.463(a) of this subpart.

(f) *Use of packagers.* Non-profit groups, churches, civic organizations, Community Action Programs (CAP) or other special interest organizations may package Section 504 loan and grant applications. Each County Supervisor should actively seek the assistance of these organizations and provide adequate orientation and training concerning the responsibilities of a packager and the information required to package applications.

(g) *Determination of eligibility.* Eligibility for all Section 504 loan and grant applicants will be determined under § 1944.458 of this subpart.

(h) *Notification.* Give notification of eligibility or adverse action to all applicants under § 1910.6 of Subpart A of Part 1910 of this chapter. Adverse actions will be processed under Subpart B of Part 1900 of this chapter.

§ 1944.468 Loan or grant approval.

(a) Section 504 loans or grants will be approved in accordance with Subpart A of Part 1901 or this chapter.

(b) The loan/grant approving official is responsible for reviewing the case file to determine that the proposed loan/grant complies with established policies and regulations, and that funds are available. Income and financial information used in eligibility determinations or loan/grant approvals must not be over 90 days old.

(c) At loan approval, the loan/grant approving official will prepare Forms FmHA 1940–1, "Request for Obligation of Funds," and 1944–2, "Single Family Housing Fund Analysis," and complete Form FmHA 1940/41, "Truth in Lending Disclosure Statement," using the actual terms of the transaction, and deliver it to the applicant. For transactions that are subject to cancellation, all property owners with the right to cancel will receive Form FmHA 1940–43, "Notice of Right to Cancel."

§ 1944.469 Loan closing or grant settlement.

All grants and loans of $7,500 or less may be closed or settled by the County Supervisor or designee.

(a) *Effective date of loan closing or grant settlement.* A loan secured by a real estate mortgage is closed when the mortgage is filed for record. In other cases, the loan and/or grant is closed or settled when the promissory note or repayment agreement and any other required instrument is executed by the borrower/grantee.

(b) *Promissory note.* Form FmHA 440–16, "Promissory Note," will be used for each loan made under this subpart. The note will be prepared and signed according to Part 1807 of this chapter (FmHA Instruction 427.1) and § 1944.453(c) of this subpart concerning co-signers. Each promissory note will be prepared for monthly payment.

(c) *Repayment agreement.* Exhibit A of this subpart, prepared in original and one copy, will be used for grant assistance. The original signed document will be retained in position 2 of the County Office case file, and a copy given to the grantee.

(d) *Mortgage.* Form FmHA 427–1, "Real Estate Mortage for (*State*)," will be used for each loan to be secured by a real estate mortgage. Each change made in the text by deletion, substitution or addition (excluding filling in the blanks) will be initialed in the margin by each person signing the mortgage and by the FmHA official making the change. Mortgages for loans on leasehold interests will be taken according to § 1944.18(b)(5) and § 1944.15(a)(5) (iv) and (v) of Subpart A of this part. For loans secured by a real estate mortgage subject to the right to cancel, Form FmHA 1940–43 will be given at closing to all entitled individuals according to Subpart I of Part 1940 of this chapter.

(e) *Supervised bank accounts.* A supervised bank account will be established in accordance with Subpart A of Part 1902 of this chapter, unless all the proceeds are disbursed to a supplier or contractor at closing. Funds from other sources deposited in supervised bank accounts will be accounted for by using columns 5 through 14 of Form FmHA 402–2, "Statement of Deposits and Withdrawals."

(f) *Disbursement of funds.* Loan funds secured by a real estate mortgage may not be disbursed until the right to cancel time period has expired. Funds will be disbursed as follows:

(1) Payments for work completed will be in accordance with § 1924.6 of Subpart A of Part 1924 of this chapter.

(2) Funds deposited in supervised bank accounts will be disbursed in the following order of priority:

(i) Applicant contribution;

(ii) Funds from sources other than FmHA;

(iii) FmHA Section 504 loan funds;

(iv) FmHA Section 504 grant funds.

(g) *Unused funds.* Unused Section 504 grant funds will be handled as follows:

(1) When all planned development has been completed, remaining funds may be used for any additional authorized purposes, as agreed upon by the recipient and FmHA. If so such agreement can be reached, the funds will be returned to the Finance Office.

(2) The funds also will be returned to the Finance Office when:

(i) All planned development cannot be completed because the contractor is unable or unwilling to do so and the recipient—even with the assistance of the County Supervisor—is unable to obtain another contractor; or

(ii) The purpose of the loan/grant cannot be accomplished because the borrower/grantee no longer resides in the dwelling.

(3) Funds will be returned to the Finance Office in the following manner:

(i) Any funds returned shall first be applied to reducing a grant. When returning grant funds to the Finance Office, the collecting office will enter payment code 21 (other) on Form FmHA 451–2, "Schedule of Remittances," with a brief explanation ("Recovery of Section 504 Housing Repairs Grants") and forward with check to the Finance Office.

(ii) If a grant was not involved or the amount of any grant has already been returned, then remaining funds shall be returned to the Finance Office and applied to the borrower's loan account as a refund.

(h) *Deceased borrower/grantee.*

(1) When a borrower/grantee dies prior to disbursement of funds for development work performed, payment may be authorized when:

(i) There is evidence the recipient or their authorized representative accepted the work as complete and satisfactory; and

(ii) An inspection of the development work is completed by an authorized FmHA representative.

(2) When a loan is secured by a real estate mortage, the State Director may withdraw funds to pay commitments for goods delivered or services performed, in accordance with § 1902.15(d)(1)(iii) of Subpart A of Part 1092 of this chapter.

(3) In any other instance not covered by paragraph (1) or (2), the funds will be returned to the Finance Office.

§§ 1944.470–1944.471 [Reserved]

§ 1944.472 Subsequent Section 504 loans and/or grants.

Subsequent Section 504 loans or grants may be made for the same purposes and under the same conditions and limitations as initial Section 504 loans and grants.

§ 1944.473 Unauthorized loans and/or grants.

Unauthorized loans and/or grants are those where it is determined the recipient was not eligible for the assistance received or where the loan and/or grant was approved for unauthorized purposes. Cases of these types will be serviced according to Subpart M of Part 1951 of this chapter.

§ 1944.474 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. The Administrator will exercise this authority only at the request of the State Director and recommendation of the Assistant Administrator, Housing. Requests for exceptions must be made in writing by the State Director and supported with documentation to explain the adverse effect on the Government's interest, propose alternative course of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§§ 1944.475–1944.500 [Reserved]

Date: April 12, 1988.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88–12260 Filed 5–31–88; 8:45 am]

BILLING CODE 3410–07–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Emergency Planning and Preparedness Requirements for Nuclear Power Plant Fuel Loading and Initial Low-Power Operations

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: The Nuclear Regulatory Commission has published proposed amendments to its regulations to establish more clearly what emergency planning and preparedness requirements are needed for fuel loading and low power operation of nuclear power plants. 53 FR 16435, May 9, 1988. The notice of proposed rulemaking stated that the comment period would expire on June 8, 1988.

The Commission has received several requests for the extension of the comment period. After considering the requests, and the reasons stated therein, the Commission has decided to extend the comment period for an additional fifteen days.

DATES: The comment period has been extended and now expires on June 23, 1988. Comments filed after this date will be considered if practical to do so, but only those comments filed on or before June 23 can be assured of consideration.

ADDRESSES: Comments may be sent to the Secretary of the Commission, Attention: Docketing and Service Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or may be hand-delivered either to the Office of the Secretary, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between the hours of 7:30 a.m. and 4:15 p.m. weekdays or the Public Document Room, 1717 H Street, NW., Washington, DC 20555, between the hours of 7:45 a.m. and 4:30 p.m..

FOR FURTHER INFORMATION CONTACT: James R. Wolf, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 492–1641, or Michael T. Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 492–3918.

Dated at Rockville, Maryland, this 25th day of May, 1988.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88–12225 Filed 5–31–88; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 871 0049]

Patrick S. O'Halloran, M.D., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, five Rhode Island obstetricians from dealing with any government health care program on collectively determined terms or collectively refusing to deal with any government health care program.

DATE: Comments must be received on or before July 31, 1988.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 136, 6th St. and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: M. Elizabeth Gee, FTC/S–3115, Washington, DC 20580. (202) 326–2756.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Obstetricians, Trade practices.

In the matter of Patrick S. O'Halloran, M.D., Donald A. Guadagnoli, M.D., Nasser Chahmirzadi, M.D., James C. Gedney, M.D., Douglas G. Wilson, M.D.

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of respondent, Donald A. Guadagnoli, M.D., and others, and it now appearing that respondent is willing to enter into an agreement containing an Order to cease and desist from engaging in the use of the acts and practices being investigated,

It is hereby agreed by and between respondent and counsel for the Federal Trade Commission that:

1. Respondent is a physician licensed and doing business under and by virtue of the laws of the State of Rhode Island. Respondent's mailing address is 333 Valley Road, Middletown, Rhode Island 02840.

2. Respondent admits all of the jurisdictional facts set forth in the draft of complaint here attached.

3. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules of Practice, the Commission may, without further notice to respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following Order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to Order to respondent's address stated in this agreement shall constitute service. Respondent waives any right he may have to any other manner of service. The complaint attached hereto may be used in construing the terms of the Order, and no agreement, understanding, reprentation, or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

7. Respondnet has read the proposed complaint and Order contemplated hereby. He understands that once the Order has been issued, he will be required to file one or more compliance reports showing that he has fully complied with the Order. Respondent further understands that he may be liable for civil penalties in the amount provided by law for each violation of the Order after the Order becomes final.

Order

I

For purposes of this Order, the following definitions shall apply:

"Respondent" means Donald A. Guadagnoli, M.D., his employees, agents and respresentatives.

"Governmental health care program" means any governmental program that reimburses for, purchases, or pays for health care services provided to any person.

"Integrated joint venture" means a joint arrangement to provide pre-paid health care services in which physicians who would otherwise be competitors pool their capital to finance the venture, by themselves or together with others, and share substantial risk of adverse financial results caused by unexpectedly high utilization or costs of health care services.

II

It is ordered, that respondent, directly, indirectly or through any device, in connection with the provision of medical services in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from agreeing, attempting or threatening to agree, or continuing any agreement or understanding, either express or implied, with any phsician (1) to deal with any governmental health care program on collectively determined terms, or (2) to refuse or threaten to refuse to deal with, or otherwise coerce, any governmental health care program.

Provided that nothing in this Order shall prohibit respondent from:

(1) Entering into any agreement with any physicians with whom respondent practices medicine in partnership or in a professional corporation, or who is employed by the same person as respondent; or

(2) Entering into any agreement with any physician as a participant in an

integrated joint venture , as long as the physician participants in the joint venture remain free to deal with any governmental health care program other than through the joint venture.

III

A. *It is further ordered,* that within thirty (30) days after service of this Order, respondent shall mail a copy of this Order and the accompanying complaint to the Governor of the State of Rhode Island and to the President of Newport Hospital.

B. *It is further ordered,* that respondent shall, within sixty (6) says after service of this Order, and at any time the Commission, by written notice, may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied and is complying with this Order.

C. *It is further ordered,* that respondent shall promptly notify the Commission of any change in his business address.

Concurring Statement of Chairman Daniel Oliver Patrick S. O'Halloran, M.D., et al.

I have voted to issue the consent order in this matter for public comment. However, I would have preferred an order that included a provision for automatic termination after ten years. In my view, an antitrust conduct order should be preserved only so long as its benefits outweigh its costs. Maintaining an order such as this in perpetuity is not ordinarily appropriate. Its procompetitive remedial benefits can be expected to decline over time, and it may also begin to have adverse effects on certain procompetitive practices.

With respect to orders in merger cases, the Commission has already concluded that "order provisions requiring prior Commission approval of future acquisitions generally should not have terms exceeding ten years."[1] The Commission determined that such provisions will in most cases have served their remedial purposes after ten years, and "the findings upon which such provisions are based should not be presumed to continue to exist for a longer period of time." [2] For similar reasons, I believe that the consent order at issue here should automatically terminate after ten years.

Newport, Rhode Island Obstetricians—Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, agreements to proposed consent orders from the five obstetricians who practice in Aquidneck Island, Rhode Island, where the city of Newport is located. The agreements which have been placed on the public record have been signed by Patrick S. OHalloran, M.D., Donald A. Guadagnoli, M.D., Nasser Chahmirzadi, M.D., James C. Gedney, M.D., and Douglas G. Wilson, M.D. ("proposed respondents"). The agreements with the proposed respondents would settle charges by the Federal Trade Commission that they violated Section 5 of the Federal Trade Commission Act by combining or conspiring to threaten the State of Rhode Island with a boycott if the State did not raise the level of Medicaid payment for obstetrical services.

The proposed consent orders have been placed on the public record for 60 days for reception of comments by interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

The Complaint

A complaint has been prepared for issuance by the Commission along with the proposed orders. It alleges that the proposed respondents constitute all of the obstetricians practicing on Aquidneck Island and that they participated in a combination or conspiracy to force the State to raise the level of Medicaid payment for obstetrical services by concertedly threatening to refuse to accept new Medicaid patients after February 15, 1987 if prompt action were not taken by the State. The proposed respondents communicated this threat by means of letters sent to the Governor of Rhode Island.

The complaint alleges that, as a result of this combination or conspiracy, four days before the deadline set by the obstetricians, the State announced that the Medicaid payment level for the package of services provided in connection with a routine obstetrical delivery would be more than doubled.

The complaint further alleges that the purpose, effects, tendency, or capacity of the combination or conspiracy have been to restrain trade unreasonably and hinder competition in the provision of obstetrical services on Aquideck Island, and to deprive consumers of the benefits of competition in the following ways, among others:

A. By restraining competition among obstetricians on Aquidneck Island;

B. By fixing or increasing the prices that respondents charged for providing obstetrical services to Medicaid patients; and

C. By depriving the State of Rhode Island and the Medicaid-eligible people on Aquidneck Island of the benefits of competition among obstetricians on Aquidneck Island.

The Proposed Consent Orders

The terms of the proposed consent orders are identical. Part II describes the conduct prohibited by the orders. They would prevent the proposed respondents from agreeing, attempting or threatening to agree, or continuing any agreement, express or implied, (1) to deal with any governmental health care program on collectively determined terms or (2) to refuse or threaten to refuse to deal with, or otherwise coerce, any governmental health care program. Part II also provides that the orders do not prohibit respondents from (1) entering into agreements with physicians with whom they are partners, who are members of the same professional corporation, or who are employed by the same person as respondent or (2) entering into agreements with physicians as participants in an integrated joint venture, as long as the physician participants are free to deal with any governmental health care program other than through the joint venture. "Integrated joint venture" is defined as a joint arrangement to provide pre-paid health care services in which physicians who would otherwise be competitors pool their capital to finance the venture, by themselves or together with others, and share substantial risk of adverse financial results caused by unexpectedly high utilization or costs of health care services.

Part III.A. requires each proposed respondent, within 30 days after service of the order, to mail a copy of the order and the accompanying complaint to the Governor of Rhode Island and to the President of Newport Hospital.

Part III.B. requires each proposed respondent to file a compliance report 60 days after service of the order and at such times as the Commission may require.

---

[1] *Hercules, Inc.*, 100 F.T.C. 531 (1982) (modifying order); *see also, e.g., MidCon Corp.*, 107 F.T.C. 48, 58 (1986) (consent order) (ten years); *Hospital Corp. of America*, 106 F.T.C. 361, 524 (1985) (ten years), *aff'd*, 807 F.2d 1381 (7th Cir. 1986), *cert. denied*, 107 S.Ct. 1975 (1987); *Columbian Enterprises, Inc.*, 106 F.T.C. 551, 554 (1985) (consent order) (five years).

[2] *Hercules, Inc.*, 100 F.T.C. at 531.

Part III.C. requires each proposed respondent to notify the Commission of any change in his business address.

The purpose of this analysis is to facilitate public comment on the proposed orders, and is not intended to constitute an official interpretation of the agreements and proposed orders or to modify their terms in any way.

The proposed consent orders have been entered into for settlement purposes only and do not constitute admissions by the proposed respondents that the law has been violated as alleged in the complaint.

Emily H. Rock,

Secretary.

[FR Doc. 88-12146 Filed 5-31-88; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 177

Proposed Interpretive Rule Relating to Classification of Motor Vehicles as Automobile Trucks

AGENCY: U.S. Customs Service, Treasury.

ACTION: Proposed interpretive rule; solicitation of comments.

SUMMARY: Customs is reviewing the criteria it considers in determining the classification of certain motor vehicles as "automobile trucks" under item 692.02, Tariff Schedules of the United States. This document requests comments from the public as to the types of features or accessories in a vehicle which should be considered by Customs in distinguishing, for tariff classification purposes, between automobile trucks and other motor vehicles for the transport of persons or articles.

DATE: Comments must be received on or before July 31, 1988.

ADDRESS: Comments (preferably in triplicate) may be addressed to, and inspected at, the Regulations and Disclosure Law Branch, Room 2324, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: John L. Valentine, Commercial Rulings Division, (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

The Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), provide in Subpart B, Part 6, Schedule 6, for the classification and rate of duty for motor vehicles imported into the U.S. Automobile trucks valued at $1,000 or more are classified in item 692.02, TSUS, and pursuant to a temporary rate increase under item 945.69, TSUS, are dutiable at 25 percent ad valorem. Motor vehicles for the transport of persons or articles, other than motor buses (item 692.04), and trucks specifically described in item 692.02, TSUS, are classified in item 692.10, TSUS, and are dutiable at 2.5 percent ad valorem.

Generally, the distinction on which Customs focuses in determining whether a vehicle should be classified as an automobile trucks is that automobile trucks are designed for the transport of articles while other motor vehicles are primarily designed for the transport of persons. Developments in motor vehicle design, reflecting market demnds, have blurred the distinctions between automobile trucks and other automobiles. For example, small four-wheel drive vehicles, constructed with off-the-road capability, built on rugged chassis that were designed for truck applications, and rated at a gross vehicle weight rating (GVWR) of approximately 4,500 pounds, have become a major product in the automotive industry since 1985.

Decisions issued by Customs have generally held that these vehicles, if imported without rear seating and without certain accessories or combinations of accessories, such as carpeting, headliners, insulation, decorative side panels, ashtrays, and similar items, are classifiable as trucks. However, because these criteria often permit manipulation of the classification by the relatively simple addition or deletion of interior furnishings, Customs is reviewing whether other, more structural features should be considered in defining the meaning of the term "automobile truck" for purposes of the TSUS.

Example of Difficulty in Classifying

Sport utility vehicles and certain small vans are examples of the types of vehicles which Customs must examine closely to determine whether they are classifiable as automobile trucks. These vehicles can have a distinct cargo-carrying capability, especially when the rear seats are not attached at the time of entry. In many cases, the rear seats can be added or removed by a simple process of bolting to preexisting, recessed anchors. These seats can also be folded or removed in order to increase the ability of the vehicles to transport articles.

These vehicles also often have features that indicate they are designed for purposes other than the transport of articles. Such features include: relatively small size; four-wheel drive with off-the-road capability; an easily attached rear seat that meets Department of Transportation safety requirements; full windows in the rear area; and passenger-type side doors in the rear area. These features appear to attract a class of users or market that identifies the vehicles as "designed for" special or multipurpose operations rather than the transport of articles. Customs classification of a specific vehicle will vary depending on the features that the vehicle has upon importation.

The purpose of this notice is to solicit comments as to whether there are other criteria which will better serve Customs in defining, for tariff classification purposes, a motor vehicle under the provision for automobile trucks valued at $1,000 or more in item 692.02, TSUS.

Comments

Customs will consider any written comments timely submitted in its review of the criteria for classification of motor vehicles under the provision for automobile trucks valued at $1,000 or more in item 692.02, TSUS. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11, Customs Regulations (19 CFR 103.11(b)), between 9:00 a.m. and 4:30 p.m. on normal business days at the Regulations and Disclosure Law Branch, Room 2324, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Drafting Information

The principal authority of this document was Harold M. Singer, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: May 19, 1988.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 88-12222 Filed 5-31-88; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

Withdrawal of a Proposed Rulemaking To Amend the Oklahoma Permanent Regulatory Program

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

ACTION: Withdrawal of proposed amendments.

SUMMARY: OSMRE is announcing the withdrawal of proposed rulemaking for amendments submitted by Oklahoma as modifications to its permanent regulatory program (hereinafter referred to as the Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment was withdrawn by Oklahoma in a letter dated May 5, 1988 (Administrative Record No. OK–841).

DATES: This withdrawal is effective June 1, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 E. Skelly Drive, Suite 550, Tulsa, Oklahoma 74135: telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the provisions of 30 CFR 732.17 (d) through (f), OSMRE notified Oklahoma by letter, (Administrative Record No. OK–681), of the changes necessary to ensure that the State's Act was no less stringent than SMCRA and that its regulations were no less effective than the Federal regulations, as revised since January 19, 1981, when the program was originally approved. To comply with this notification, Oklahoma rewrote part of its regulations and submitted amendments to OSMRE in three parts. These were submitted August 19, 1986 (Administrative Record No. OK–717), August 29, 1986 (Administrative Record No. OK–749), and January 16, 1987 (Administrative Record No. OK–780).

On October 15, 1986 (51 FR 36405) and February 25, 1987 (52 FR 5550), OSMRE published a notice in the **Federal Register** announcing receipt of the submitted amendments and inviting public comment on whether the material submitted should be approved and incorporated into the Oklahoma program.

OSMRE reviewed the proposed changes and sent two separate letters (Administrative Record No. OK–804) to Oklahoma identifying those proposed amendments that were not as effective as the Federal rules. Oklahoma revised parts of the amendment and resubmitted the entire package for review to OSMRE on September 18, 1987, (Administrative Record No. OK–824).

On February 3, 1988, OSMRE published a notice in the **Federal Register** announcing the receipt of the proposed amendments and the reopening and extension of public comment period.

On May 5, 1988, Oklahoma sent a letter to OSMRE to withdraw the entire package. Oklahoma expects to submit an entire modified package soon. When Oklahoma submits the modified proposal, OSMRE will announce another comment period.

Therefore, the proposed Oklahoma program amendments announced in the **Federal Registers** dated October 15, 1986; February 25, 1987; and February 3, 1988; are withdrawn and Part 936 of Title 30 of the Code of Federal Regulations is not amended.

List of Subjects in 30 CFR Part 936

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

Date: May 17, 1988.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 88–12231 Filed 5–31–88; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–3388–5]

Ocean Dumping, Proposed Designation of Sites Located Offshore of New Jersey and Long Island, New York

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA today proposes to designate eight dredged material disposal sites located offshore of New Jersey and Long Island, New York. This action is necessary to provide acceptable ocean dumping sites for the current and future disposal of this material. The proposed site designation is for an indefinite period of time, but the site is subject to continuing monitoring to ensure that unacceptable adverse environmental impacts do not occur.

DATE: Comments must be received on or before July 18, 1988.

ADDRESS: Send comments to:

Mario P. Del Vicario, Chief, Marine and Wetlands Protection Branch, EPA Region II, 26 Federal Plaza, New York, New York 10278.

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

EPA Public Information Reference Unit (PIRU), Room 2904 (Rear), 401 M Street Southwest, Washington, DC, 20460.

EPA Region II Library, Room 402, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Mario P. Del Vicario, (212) 264–5170.

SUPPLEMENTARY INFORMATION:

A. Background

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

The EPA Ocean Dumping Regulations (40 CFR Ch. I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.) and was extended on August 19, 1985. (50 FR 33338). That list established the New Jersey/Long Island, New York sites as interim sites and extended their period of use until December 31, 1988, or until final rulemaking is completed, whichever is sooner. This site designation is being published as proposed rulemaking in accordance with Section 228 of the Ocean Dumping Regulations, which permits the designation of ocean disposal sites. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the address given above.

B. EIS Development

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, ("NEPA") requires that Federal agencies prepare an environmental impact statement (EIS) on proposals for major Federal actions

significantly affecting the quality of the human environment. The objective of NEPA is to build into the agency decision-making process careful consideration of all environmental aspects of proposed action. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EISs in connection with ocean dumping site designations such as this.

On November 18, 1983, a notice of availability of the draft EIS for public review and comment was published in the Federal Register. The public comment period on this draft EIS closed on January 2, 1984. The final EIS and this proposed rule will be published concurrently.

Primary commenters on the draft EIS were the New Jersey Department of Environmenal Protection (NJDEP), National Marine Fisheries Service (NMFS), the Corps of Engineers, and the U.S. Department of the Interior (DOI), Office of the Secretary, Mid-Atlantic Region. Both NJDEP and NMFS commented that the final designation of the dredged material deposal sites are subject to the consistency provisions of the Coastal Zone Management Act. EPA reviewed this comment and determined that site designation is not subject to the CZMA. In *Chemical Waste Management v. U.S. Department of Commerce, et al., Civil Action No. 86-624,* (United States District Court For The District Of Columbia, 1986). The court determined that neither the Coastal Zone Management Act (CZMA) nor the National Oceanic and Atmospheric Administration (NOAA) regulations implementing the CZMA authorize a State to impose conditions unilaterally on EPA as part of the consistency certification. Section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA) authorizes the Administrator to designate sites and times for dumping (33 U.S.C. section 1412(c)). The State of New Jersey is pre-empted from exercising authority over ocean dumping, including site designation (Section 106 (d) of MPRSA).

The NMFS, Office of the Secretary, expressed concerns over the quality of the dredged material and that the designation of these sites would lead to the preference of disposing the dredged material at the designated sites rather than utilizing the material for beach nourishment. Beach nourishment is the EPA's preferred method of disposal, and it is recommended wherever needed and economically feasible. Use of the dredged material for beach nourishment at any site is not precluded by the designation of an ocean disposal site. The feasibility of beach nourishment must be examined for all dredging projects and is examined on a case-by-case basis during the permitting process. At that time, a grain size analysis is performed and the quality of the dredged material is analyzed to ensure the suitability of the material proposed for disposal as beach nourishment.

Material which will "significantly degrade the waters of the United States" will not be permitted to be ocean disposed at any site. EPA, in conjunction with the U.S. Army Corps of Engineers (CE), will monitor ambient water quality trends at the site and in adjacent areas to ensure that unacceptable levels of toxic constituents are not transported outside of the site. Should monitoring surveys indicate that transport outside of the site is occurring, appropriate measures to modify or withdraw site designation are available to the Agency.

Some of the proposed sites, (Rockaway, East Rockaway, Shark River, Manasquan, and Cold Spring) are located within existing shellfish closure areas, thereby making the shellfish unharvestable. The closures were the result of bacterial contamination and not the result of dredged material disposal operations. The NMFS commented that as mandated by the Clean Water Act, water quality in these areas is expected to improve. It is not expected that the final designation of these dredged material disposal sites will contribute to decreased water quality in these areas. Although sediment suspension would be unavoidable, the increase in ambient turbidity would be short-term. In addition, because the sediment is predominantly sand it would sink rapidly and minimize resuspension.

Shellfish living in areas listed as "condemned" still provide a brood stock. However, the shellfish living in these proposed sites do not comprise a significant portion of the population, therefore the effects on the population as a whole will be minimum.

Based upon the information reported in the final EIS, EPA proposes to designate the existing Interim Designated New Jersey/Long Island, New York Dredged Material Disposal Sites for continuing use for the ocean disposal of dredged material where applicants have demonstrated compliance with EPA's ocean dumping criteria. The EIS is available for inspection at the address above.

The action discussed in the EIS is the designation for continuing use of eight ocean disposal sites for dredged material located in the Atlantic Ocean, offshore of New Jersey and Long Island, New York. The EIS discusses the need for the action and examines ocean disposal site alternatives to the proposed action. The purpose of the designation is to provide an environmentally acceptable location for the ocean disposal of materials dredged from the inlets (Rockaway Inlet, East Rockaway Inlet, Jones Inlet, and Fire Island Inlet, in New York and Shark River Inlet, Manasquan Inlet, Absecon Inlet, and Cold Spring Inlet in New Jersey) nearby the Sites. The appropriateness of ocean disposal is determined by the federal review agencies on a case-by-case basis during the permit processing period.

The EIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation and is based on one of a series of disposal site environmental studies. The environmental studies and final designation process are being conducted in accordance with the requirements of the Act, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

C. Proposed Site Designation

The first proposed site, Rockaway, is located approximately 2 nautical miles southeast of Rockaway Inlet, Long Island, New York and occupies an area of approximately 0.38 square nautical miles. Water depths within the site range from 8–11 meters. The corner coordinates of the site are as follows:

40°32'30" N., 73°55'00" W.
40°32'30" N., 73°54'00" W.
40°32'00" N., 73°54'00" W.
40°32'00" N., 73°55'00" W.

The second proposed site, East Rockaway, is located approximately 1.3 nautical miles southwest of East Rockaway Inlet and occupies an area of approximately 0.81 square nautical miles. Water depths within the site range from 6 to 9 meters. The corner coordinates are as follows:

40°34'36" N., 73°49'00" W.
40°35'06" N., 73°47'06" W.
40°34'10" N., 73°48'36" W.
40°34'12" N., 73°47'17" W.

The third proposed site, Jones, is located approximately 1.5 nautical miles southwest of Jones Inlet, Long Island, New York and occupies an area of approximately 1.19 square nautical miles. Water depths within the site range from 7 to 10 meters. The corner coordinates of the site are as follows:

40°34'32" N., 73°39'14" W.
40°34'32" N., 73°37'06" W.
40°33'48" N., 73°37'06" W.

40°33'48" N., 73°39'14" W.

The fourth proposed site, Fire Island, is located approximately 1.7 nautical miles southwest of Fire Island Inlet, Long Island, New York and occupies an area of approximately 1.09 square miles. Water depths within the site range from 7 to 10 meters. The corner coordinates of the site are as follows:
40°36'49" N., 73°23'50" W.
40°37'12" N., 73°21'30" W.
40°36'41" N., 73°21'20" W.
40°36'10" N., 73°23'40" W.

The fifth proposed site, Shark River, is located approximately 0.4 nautical miles northeast of Shark River Inlet. New Jersey and occupies an area of approximately 0.6 square nautical miles. Water depth within the site is 12 meters. The corner coordinates of the site are as follows:
40°12'48" N., 73°59'45" W.
40°12'44" N., 73°59'06" W.
40°11'36" N., 73°59'28" W.
40°11'42" N., 74°00'12" W.

The sixth proposed site, Manasquan, is located approximately 0.3 nautical miles northeast of Manasquan Inlet, New Jersey and occupies an area of approximately 0.11 square nautical miles. Water depths within the site are 18 meters. The corner coordinates are as follows:
40°06'36" N., 74°01'34" W.
40°06'19" N., 74°01'39" W.
40°06'18" N., 74°01'53" W.
40°06'41" N., 74°01'51" W.

The seventh proposed site, Absecon, is located approximately 0.5 nautical miles southeast of Absecon Inlet, New Jersey and occupies an area of approximately 0.28 square nautical miles. Water depth within the site is approximately 7 meters. The corner coordinates are as follows:
39°20'39" N., 74°18'43" W.
39°20'30" N., 74°18'25" W.
39°20'03" N., 74°18'43" W.
39°20'12" N., 74°19'01" W.

The eighth proposed site, Cold Spring, is located approximately 1 nautical mile southwest of Cold Spring Inlet, New Jersey and occupies an area of approximately 0.13 nautical miles. Water depth within the site is approximately 9 meters. The corner coordinates are as follows:
38°55'52" N., 74°53'04" W.
38°55'37" N., 74°52'55" W.
38°55'23" N., 74°53'27" W.
38°55'36" N., 74°53'36" W.

All of the dredged materials disposed at the designated sites will be from dredging operations in the adjacent inlets. Maximum quantities of dredged material to be disposed of at this site are to be determined by both EPA and the Corps of Engineers. If at any time disposal operations at the site cause unacceptable advese impacts, further use of the site will be restricted or terminated.

D. Regulatory Requirements

Five general criteria are used in the selection and approval of ocean disposal sites for continuing use. Sites are selected so as: (1) To minimize interference with other marine activities, (2) to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, (3) to permit effective monitoring to detect any adverse impacts at an early stage, (4) where feasible, locations off the Continental Shelf are chosen, and (5) if at any time disposal at an Interim Site causes unacceptable adverse impacts, the use of that site will be terminated as soon as a suitable alternate disposal site can be designated. The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists eleven specific factors used in evaluating a proposed disposal site to ensure that the general criteria are met.

The eight proposed sites, as discussed below under the eleven specific factors, are acceptable under the five general criteria except for the preference of sites located off the Continental Shelf. EPA has determined, based on the information presented in the final EIS, that a site off the Continental Shelf is not practicable and that no environmental benefit would be obtained by selecting such a site instead of the sites proposed in this action. As a result of technical and economical constraints associated with the selection of a site off the Continental Shelf, the environmental benefits associated with relocating the disposal sites to a site off the Continental Shelf would not sufficiently outweigh the safety problems and increased costs that would result from increasing distance of the disposal site from the Inlets. Historical use at all eight sites has not resulted in substantial adverse effects to living resources of the ocean or to other uses of the marine environment (Appendix A).

There are clear disadvantags to designating dredged material disposal sites in deepwater locations. One of the criteria in selecting a dredged material disposal site is its ability to contain the dredged material within the site's boundaries. Deepwater sites subjected to offshore currents that would transport the dredged material outside of the site are not as environmentally acceptable as nearshore sites that could contain the material.

The location of the disposal sites has been chosen to minimize the interference of disposal activities with other activities in the marine environment. All sites are located inshore of the major shipping lanes, with the exception of Rockaway which is located within a precautionary zone. Temporary perturbations in water quality from dredged material disposal may occur, but conditions can be expected to return to ambient levels before reaching any beach, shoreline or known geographically limited fishery or shellfishery [Section 228.5(b)]. Based upon disposal site evaluation studies presented in the EIS, the sites proposed for designation satisfy the criteria for site selection set forth in §§ 228.5–228.6 [§ 228.5(c)]. EPA established the 11 specific factors [§ 228.6] to constitute an environmental assessment of the impact of disposal at the sites. The criteria are used to make comparisons between the alternative sites and are the basis for final site selection. The characteristics of the existing sites are reviewed below in terms of these 11 factors.

D.1. Rockaway

D.1.1. Geographical Position, Depth of Water, Bottom Topography, and Distance From Coast [40 CFR 228.6(a)(1)]

The proposed site is approximately 0.38 square nautical miles in size. Its corner coordinates are given above. Water depth ranges from 8 to 11 meters. The site is located approximately 2 nautical miles southeast of Rockaway Inlet, Long Island, New York, and is approximately 0.4 nautical miles offshore. The bottom topography is characterized by ridges and swales. The sediment composition at the site averages 93.5% sand, 1.1% silt, 3.6% clay, and 1.8% gravel.

D.1.2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases [40 CFR 228.6(a)(2).]

The site does not encompass any known unique breeding, spawning, nursing, or passage areas or nekton, marine mammals, or birds. Marine mammals including whales, dolphins, and sea turtles frequent the New York Bight on a seasonal basis, and shellfish grounds including clams, quahogs, scallops, and lobsters can be found throughout the Bight. The Bight also supports large commercial and recreational fisheries. The proposed dredged material disposal site was selected because of its location outside of major commercial and recreational

fishing areas, and does not constitute a unique site within the Bight for any of these species. Furthermore, both the proposed site and Rockaway Inlet are located within shellfish closure zones.

D.1.3. Location in Relation to Beaches and Other Amenity Areas

The proposed site is approximately 0.4 nautical miles offshore. Rockaway Inlet and the nearby beach do provide important recreational areas and many tourists utilize these areas during the summer months. However, the release of material at the site is not expected to adversely affect the shorelines, public health or aesthetics. Furthermore, the amount of material to be disposed of at this site is not significant. It is estimated from past dredging projects that only 200,000 cubic yards of material will be disposed of at this site every 50 years. The New York District of the Army Corps of Engineers has in the past scheduled its dredging projects during periods of low recreational activity (September to January) so as not to interfere with recreation activities.

D.1.4. Types and Quantities of Wastes Proposed to be Disposed of, and proposed Methods of Release, Including Methods of Packing the Waste, If Any. [40 CFR 228.6(a)(4)]

In the past, this site has received approximately 200,000 cubic yards of material every 50 years. The dumping occurs primarily by hopper dredge. Only dredged material consisting of sands, silts, and clays will be disposed of at the site. All dredged materials must satisfy EPA criteria before any permits for ocean dumping are granted. None of the material will be packaged in any way. The dredged material from the Inlet disposed of at this site in the past has been approximately 96% sand.

D.1.5. Feasibility of Surveillance and Monitoring [40 CFR 228.6(a)(5)]

Surveillance of disposal operations at the proposed site could be achieved from shore, helicopter, or shiprider. Periodic monitoring by EPA, the Corps of Engineers, and permittees will continue for as long as the site is used. Additional monitoring will be required if dredging volumes and/or characteristics of the dredged material are changed significantly to ensure that adverse impacts do not develop. Periodic reports of monitoring operations will be made available to interested persons upon request. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at the site.

D.1.6. Dispersal, Horizontal Transport, and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, If Any [40 CFR 228.6(a)(6)]

Dredged materials characteristically exhibit dispersion of fine material and subsequent elevated levels of suspended sediment and turbidity when they are disposed. The material to be dredged from Rockaway Inlet is similar in composition to the disposal site and is composed primarily of sand, minimizing the dgree or resuspension and increase in turbidity. Generally, nearshore curent flows are towards the southwest and onshore. In general, transport of suspended solids from dredged material disposal will depend primarily upon the speed and direction of the wind and upon the direction of tidal currents.

D.1.7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) [40 CFR 228.6(a)(7)]

Chemical and biological data suggest that previous dumping of dredged material at the site has produced no significant adverse impacts on the water quality at the proposed site. An EPA contractor's survey data did not indicate any trends attributable to previous or current disposal of dredged material. No major differences in finfish and shellfish species or numbers were found in the surveys within and adjacent to the Site.

D.1.8. Interference with Shipping, Fshing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance, and Other Legitimate Uses of the Ocean. [40 CFR 228.6(a)(8)].

Rockaway is not located within a major shipping lane; however, it is within a precautionary zone. Because of the low overall use of this site, there is little probability of interference with shipping traffic. No navigational problems related to dredged material disposal at this site have been reported to date. No mineral extraction or fish and shellfish culture exist or are planned near the dumpsite. Desalination does not occur near the site. There are no unique resources of special scientific importance in the disposal area due to the small size of the disposal area in relation to the New York Bight.

D.1.9. The Existing Water Quality and Ecology of the Site as Determined by Available Data or by Trend Assessment or Baseline Surveys [40 CFR 228.6(a)(9)].

Environmental surveys of the site were conducted in 1979 by an EPA contractor. The study revealed coastal water similar in water quality and thermohaline structure to other coastal areas of New York and New Jersey. The benthic community was dominated by deposit-feeders, ubiquitous throughout the study area, but very patchily distributed. These species are opportunistic and characteristic of sandy environments. The fauna at the proposed site are thus well adapted to survive future disposal operations.

D.1.10. Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site [40 CFR 228.6(a)(10)].

Previous disposal at the proposed Rockaway site has not caused any development of nuisance species at the site. There are no components in the dredged material which would attract or recruit nuisance species to the site.

D.1.11. Existence at or in Close Proximity to the Site of Any Significant Natural or Cultural Feature of Historical Importance [40 CFR 228.6(a)(11)]

No such areas have been identified at the proposed Rockaway site or in areas likely to be affected by dredged material disposal at the site.

D.2 East Rockaway

D.2.1. Geographical Position, Depth of Water, Bottom Topography, and Distance From Coast [40 CFR 228.6(a)(1)]

The proposed site, East Rockaway, is approximately 0.81 square nautical miles in size. Its corner coordinates are given above. Water depths range from 6 to 9 meters with an average of 6.9 meters. The site is located approximately 1.3 nautical miles southwest of East Rockaway Inlet, Long Island, New York, and is approximately 0.4 nautical miles offshore. The bottom topography is characterized by ridges and swales. The sediment composition at the site averages 96.1% sand, 1.4% silt, 1.6% clay, and 0.9% gravel.

D.2.2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases [40 CFR 228.6(a)(2)]

The site does not encompass any known unique breeding, spawning, nursery, or passage areas of nekton, marine mammals, or birds. Marine mammals including whales, dolphins, and sea turtles frequent the New York Bight on a seasonal basis, and shellfish grounds including clams, quahogs, scallops, and lobsters can be found throughout the Bight. The Bight also supports large commercial and recreational fisheries. The proposed dredged material disposal site was

selected because of its location outside of major commercial and recreational fishing areas, and does not constitute a unique site within the Bight for any of these species. Furthermore, both the proposed site and East Rockaway Inlet are located within shellfish closure zones.

D.2.3. Location in Relation to Beaches and Other Amenity Areas

The proposed site is approximately 0.4 nautical miles offshore. East Rockaway Inlet and the nearby beach do provide important recreational areas and many tourists utilize these areas during the summer months. However, the release of material at the site is not expected to adversely affect the shoreline, public health, or aesthetics.

D.2.4. Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, If Any [40 CFR 228.6(a)(4)]

In the past, this site has received approximately 100,000 cubic yards of material every year. Only dredged material consisting of sands, silts, and clays will be disposed of at the site. The dumping occurs primarily by hopper dredged. All dredged materials must satisfy EPA criteria before any permits for ocean dumping are granted. None of the material will be packaged in any way. The dredged material from the Inlet, disposed of at this site in the past has been 98% sand.

D.2.5. Feasibility of Surveillance and Monitoring [40 CFR 228.6(a)(5)]

Surveillance of disposal operations at the proposed site could be achieved from shore, helicopter, or shiprider. Periodic monitoring by EPA, the Corps of Engineers, and permittees will continue for as long as the site is used. Additional monitoring will be required if dredging volumes and/or characteristics of the dredged material are changed significantly to ensure that adverse impacts do not develop. Periodic reports of monitoring operations will be made available to interested persons upon request. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at the site.

D.2.6. Dispersal, Horizontal Transport, and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if Any [40 CFR 228.6(a)(6)].

Dredged materials characteristically exhibit dispersion of fine material and subsequent elevated levels of suspended sediment and turbidity when they are disposed. The material to be dredged from East Rockaway Inlet is similar in composition to the disposal site and is composed primarily of sand, minimizing the degree of resuspension and increase in turbidity. Generally, nearshore current flows are towards the southwest and onshore. In general, transport of suspended solids from dredged material disposal will depend primarily upon the speed and direction of the wind and upon the direction of tidal currents.

D.2.7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) [40 CFR 228.6(a)(7)].

Chemical and biological data suggest that previous dumping of dredged material at the site has produced no significant adverse impacts on the water quality at the proposed site. EPA contracted survey data did not indicate any trends attributable to previous or current disposal of dredged material. No major differences in finfish and shellfish species or numbers were found in the surveys within and adjacent to the Site.

D.2.8. Interference With Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance, and Other Legitimate Uses of the Ocean [40 CFR 228.6(a)(8)].

East Rockaway is not located within a major shipping lane. Because of the low overall use of this site, there is little probability of interference with shipping traffic. No navigational problems related to dredged material disposal at this site have been reported to date. No mineral extraction or fish and shellfish culture exist or are planned near the dumpsite. Desalination does not occur near the site. There are no unique resources of special scientific importance in the disposal area due to the small size of the disposal area in relation to the New York Bight.

D.2.9. The Existing Water Quality and Ecology of the Site as Determined by Available Data or by Trend Assessment or Baseline Surveys [40 CFR 228.6(a)(9)].

Environmental surveys of the site were conducted in 1979 by an EPA contractor. The study revealed coastal water similar in water quality and thermohaline structure to other coastal areas of New York and New Jersey. The benthic community was dominated by deposit-feeders, ubiquitous throughout the study area, but very patchily distributed. These species are opportunistic and characteristic of sandy environments. The fauna at the proposed site are thus well adapted to survive future disposal operations.

D.2.10. Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site [40 CFR 228.6(a)(10)].

Previous disposal at the proposed East Rockaway site has not caused any development of nuisance species at the site. There are no components in the dredged material which would attract or recruit nuisance species to the site.

D.2.11. Existence at or in Close Proximity to the Site of Any Significant Natural or Cultural Feature of Historical Importance [40 CFR 228.6(a)(11)].

No such areas have been identified at the proposed East Rockaway site or in areas likely to be affected by dredged material disposal at the site.

D.3. Jones

D.3.1. Geographical Position, Depth of Water, Bottom Topography, and Distance From Coast [40 CFR 228.6(a)(1)].

The proposed site, Jones, is approximately 1.19 square nautical miles in size. Its corner coordinates are given above. Water depths range from 7 to 10 meters. The site is located approximately 1.5 nautical miles southwest of Jones Inlet, Long Island, New York, and is approximately 0.5 nautical mile offshore. The bottom topography is characterized by ridges and swales. The sediment composition at the site averages 88.1% sand, 5.5% silt, 6.1% clay, and 0.3% gravel.

D.3.2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases [40 CFR 228.6(a)(2)].

The site does not encompass any known unique breeding, spawning, nursery, or passage areas of nekton, marine mammals, or birds. Marine mammals including whales, dolphins, and sea turtles frequent the New York Bight on a seasonal basis, and shellfish grounds including clams, quahogs, scallops, and lobsters can be found throughout the Bight. The Bight also supports large commercial and recreational fisheries. The proposed dredged material disposal site was selected because of its location outside of major commercial and recreational fishing areas, and does not constitute a unique site within the Bight or any of these species.

D.3.3. Location in Relation to Beaches and Other Amenity Areas

The proposed site is approximately 0.5 nautical mile offshore. Jones Inlet and nearby beaches provide important recreational areas and many tourists

utilize these areas during the summer months. However, the release of material at the site is not expected to adversely affect the shoreline, public health, or esthetics.

D.3.4. Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, If Any [40 CFR 228.6(a)(4)].

In the past, this site has received approximately 175,000 cubic yards of material every year. Only dredged material consisting of sands, silts, and clays will be disposed of at the site. All dredged materials must satisfy EPA criteria before any permits for ocean dumping are granted. None of the material will be packaged in any way. The dredged material from the Inlet, disposed of at this site in the past has been 99% sand.

D.3.5. Feasibility of Surveillance and Monitoring [40 CFR 228.6(a)(5)].

Surveillance of disposal operations at the proposed site could be achieved from shore, helicopter, or shiprider. Periodic monitoring by EPA, the Corps of Engineers, and permittees will continue for as long as the site is used. Additional monitoring will be required by dredging volumes and/or characteristics of the dredged material change significantly to ensure that adverse impacts do not develop. Periodic reports of monitoring operations will be made available to interested persons upon request. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at the site.

D.3.6. Dispersal, Horizontal Transport, and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if Any [40 CFR 228.6(a)(6)].

Dredged materials characteristically exhibit dispersion of fine material and subsequent elevated levels of suspended sediment and turbidity when they are disposed. The material to be dredged from Jones Inlet is similar in composition to the disposal site and is composed primarily of sand, minimizing the degree of resuspension and increase in turbidity. Generally, nearshore current flows are towards the southwest and onshore. In general, transport of suspended solids from dredged material disposal will depend primarily upon the speed and direction of the wind and upon the direction of tidal currents.

D.3.7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) [40 CFR 228.6(a)(7)].

Chemical and biological data suggest that previous dumping of dredged material at the site has produced no significant adverse impacts on the water quality at the proposed site. EPA contracted survey data did not indicate any trends attributable to previous or current disposal of dredged material. No major differences in finfish and shellfish species or numbers were found in the surveys within and adjacent to the Site.

D.3.8. Interference with Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance, and Other Legitimate Uses of the Ocean [40 CFR 228.6(a)(8)].

The proposed site, Jones, is not located within a major shipping lane. Because of the low overall use of this site, there is little probability of interference with shipping traffic. No navigational problems related to dredged material disposal at this site have been reported to date. No mineral extraction or fish and shellfish culture exist or are planned near the dumpsite. Desalination does not occur near the site. There are no unique resources of special scientific importance in the disposal area due to the small size of the disposal area in relation to the New York Bight.

D.3.9. The Existing Water Quality and Ecology of the Site as Determined by Available Data or by Trend Assessment or Baseline Surveys [40 CFR 228.6(a)(9)].

Environmental surveys of the site were conducted in 1979 by an EPA contractor. The study revealed coastal water similar in water quality and thermohaline structure to other coastal areas of New York and New Jeresey. The benthic community was dominated by deposit-feeders, ubiquitous throughout the study area, but very patchily distributed. These species are opportunistic and characteristic of sandy, dynamic environments. The fauna at the proposed site are thus well adapted to survive future disposal operations.

D.3.10. Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site [40 CFR 228.6(a)(10)].

Previous disposal at the proposed Jones site has not caused any development of nuisance species at the site. There are no components in the dredged material which would attract or recruit nuisance species to the site.

D.3.11. Existence at or in Close Proximity to the Site of Any Significant Natural or Cultural Featur of Historical Importance [40 CFR 228.6(a)(11)].

No such areas have been identified at the proposed Jones site or in areas likely to be affected by dredged material disposal at the site.

D.4. Fire Island

D.4.1. Geographical Position, Depth of Water, Bottom Topography, and Distance From Coast [40 CFR 228.6(a)(1)].

The proposed site, Fire Island, is approximately 1.09 square nautical miles in size. Its corner coordinates are given above. Water depths range from 7 to 10 meters. The site is located approximately 1.7 nautical miles southwest of Fire Island Inlet, Long Island, New York, and is approximately 0.5 nautical miles offshore. The bottom topography is characterized by ridges and swales. The sediment composition at the site averages 89.8% sand, 5.9% silt, and 4.3% clay.

D.4.2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases [40 CFR 228.6(a)(2)].

The site does not encompass any known unique breeding spawning, nursery, or passage areas of nekton, marine mammals, or birds. Marine mammals including whales, dolphins, and sea turtles frequent the New York Bight on a seasonal basis, and shellfish grounds including clams, quahogs, scallops, and lobsters can be found throughout the Bight. The Bight also supports large commercial and recreational fisheries. The proposed dredged material disposal site was selected because of its location outside of major commercial and recreational fishing areas, and does not constitute a unique site within the Bight or any of these species.

D.4.3. Location in Relation to Beaches and Other Amenity Areas.

The proposed site is approximately 0.5 nautical miles offshore. Fire Island Inlet and nearby beaches provide important recretional areas and many tourists utilize these areas during the summer months. However, the release of material at the site is not expected to adversely affect the shorelines, public health, or aesthetics.

D.4.4. Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, if Any. [40 CFR 228.6(a)(4)]

In the past, this site has received approximately 1.5 million cubic yards of material every year. The dumping occurs primarily by pumping onto beach from hydraulic pipeline. Only dredged material consisting of sands, silts, and clays will be disposed of at the site. All dredged materials must satisfy EPA criteria before any permits for ocean dumping are granted. None of the material will be packaged in any way. The dredged material from the Inlet, disposed of at this site in the past has been 99% sand.

D.4.5. Feasibility of Surveillance and Monitoring [40 CFR 228.6(a)(5)]

Surveillance of disposal operations at the proposed site could be achieved from shore, helicopter, or shiprider. Periodic monitoring by EPA, the Corps of Engineers, and permittees will continue for as long as the site is used. Additional monitoring will be required if dredging volumes and/or characteristics of the dredged material change significantly to ensure that adverse impacts do not develop. Periodic reports of monitoring operations will be made available to interested persons upon request. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at the site.

D.4.6. Dispersal, Horizontal Transport, and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if Any [40 CFR 228.6(a)(6)]

Dredged materials characteristically exhibit dispersion of fine material and subsequent elevated levels of suspended sediment and turbidity when they are disposed. The material to be dredged from Fire Island Inlet is similar in composition to the disposal site and is composed primarily of sand, minimizing the degree of resuspension and increase in turbidity. Generally, nearshore current flows are towards the southwest and onshore. In general, transport of suspended solids from dredged material disposal will depend primarily upon the speed and direction of the wind and upon the direction of tidal currents.

D.4.7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) [40 CFR 228.6(a)(7)]

Chemical and biological data suggest that previous dumping of dredged material at the site has produced no significant adverse impacts on the water quality at the proposed site. EPA contracted survey data did not indicate any trends attributable to previous or current disposal of dredged material. No major differences in finfish and shellfish species or numbers were found in the surveys within and adjacent to the Site.

D.4.8. Interference With Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance, and Other Legitimate Uses of the Ocean [40 CFR 228.6(a)(8)]

The proposed Fire Island site is not located within a major shipping lane. Because of the low overall use of this site, there is little probability of interference with shipping traffic. No navigational problems related to dredged material disposal at this site have been reported to date. No mineral extraction or fish and shellfish culture exist or are planned near the dumpsite. Desalination does not occur near the site. There are no unique resources of special scientific importance in the disposal area due to the small size of the disposal area in relation to the New York Bight.

D.4.9. The Existing Water Quality and Ecology of the Site as Determined by Available Data or by Trend Assessment or Baseline Surveys [40 CFR 228.6(a)(9)]

Environmental surveys of the site were conducted in 1979 by an EPA contractor. The survey revealed coastal water similar in water quality and thermohaline structure to other coastal areas of New York and New Jersey. The benthic community was dominated by deposit-feeders, ubiquitous throughout the study area, but very patchily distributed. These species are opportunistic and characteristic of sandy, dynamic environments. The fauna at the proposed site are thus well adapted to survive future disposal operations.

D.4.10. Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site [40 CFR 228.6(a)(10)]

Previous disposal at the proposed Fire Island site has not caused any development of nuisance species at the site. There are no components in the dredged material which would attract or recruit nuisance species to the site.

D.4.11. Existence at or in Close Proximity to the Site of Any Significant Natural or Cultural Feature of Historical Importance [40 CFR 228.6(a)(11)]

No such areas have been identified at the proposed Fire Island site or in areas likely to be affected by dredged material disposal at the site.

D.5 Shark River

D.5.1. Geographical Position, Depth of Water, Bottom Topography, and Distance From Coast [40 CFR 228.6(a)(1)]

The proposed site, Shark River, is approximately 0.6 square nautical mile in size. Its corner coordinates are given above. Water depths are approximately 12 meters. The site is located approximately 0.4 nautical mile northeast of Shark River Inlet, New Jersey, and is approximately 0.25 nautical mile offshore. The bottom topography is characterized by ridges and swales. The sediment composition at the site averages 60.9% sand, 27.7% silt and clay, and 11.4% gravel.

D.5.2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases [40 CFR 228.6(a)(2)]

The site does not encompass any known unique breeding, spawning, nursery, or passage areas of nekton, marine mammals, or birds. Marine mammals including whales, dolphins, and sea turtles frequent the New York Bight on a seasonal basis, and shellfish grounds including clams, quahogs, scallops, and lobsters can be found throughout the Bight. The Bight also supports large commercial and recreational fisheries. The proposed dredged material disposal site was selected because of its location outside of major commercial and recreational fishing areas, and does not constitute a unique site within the Bight or any of these species.

D.5.3. Location in Relation to Beaches and Other Amenity Areas

The proposed site is approximately 0.25 nautical miles offshore. Shark River Inlet and nearby beaches provide important recreational areas and many tourists utilize these areas during the summer months. However, the release of material at the site is not expected to adversely affect the shorelines public health or aesthetics. Furthermore, Shark River Inlet and the proposed site are located within shellfish closure areas.

D.5.4. Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, if Any [40 CFR 228.6(a)(4)]

In the past, this site has received approximately 42,000 cubic yards of material every five years. The dumping occurs primarily by pumping onto beach

from hydraulic pipeline. Only dredged material consisting of sands, silts, and clays will be disposed of at the site. All dredged materials must satisfy EPA criteria before any permits for ocean dumping are granted. None of the material will be packaged in any way. The dredged material from the Inlet, disposed of at this site in the past has been 88 to 96% sand.

D.5.5. Feasibility of Surveillance and Monitoring [40 CFR 228.6(a)(5)]

Surveillance of disposal operations at the proposed site could be achieved from shore, helicopter, or shiprider. Periodic monitoring by EPA, the Corps of Engineers, and permittees will continue for as long as the site is used. Additional monitoring will be required if dredging volumes and/or characteristics of the dredged material are changed significantly to assure that adverse impacts do not develop. Periodic reports of monitoring operations will be made available to interested persons upon request. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at the site.

D.5.6. Dispersal, Horizontal Transport, and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if Any [40 CFR 228.6(a)(6)]

Dredged materials characteristically exhibit dispersion of fine material and subsequent elevated levels of suspended sediment and turbidity when they are disposed. The material to be dredged from Shark River Inlet is similar in composition to the disposal site and is composed primarily of sand, minimizing the degree of resuspension and increase in turbidity. Generally, nearshore current flows are towards the southwest and onshore. In general, transport of suspended solids from dredged material disposal will depend primarily upon the speed and direction of the wind and upon the direction to tidal currents.

D.5.7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) [40 CFR 228.6(a)(7)]

Chemical and biological data suggest that previous dumping of dredged material at the site has produced no significant adverse impacts on the water quality at the proposed site. EPA contracted survey data did not indicate any trends attributable to previous or current disposal of dredged material. No major differences in finfish and shellfish species or numbers were found in the surveys within and adjacent to the Site.

D.5.8. Interference With Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance, and Other Legitimate Uses of the Ocean [40 CFR 228.6(a)(8)]

The proposed Shark River site is not located within a major shipping lane. Because of the low overall use of this site, there is little probability of interference with shipping traffic. No navigational problems related to dredged material disposal at this site have been reported to date. No mineral extraction or fish and shellfish culture exist or are planned near the dumpsite. Desalinatioin does not occur near the site. There are no unique resources of special scientific importance in the disposal area due to the small size of the disposal area in relation to the New York Bight.

D.5.9. The Existing Water Quality and Ecology of the Site as Determined by Available Data or by Trend Assessment or Baseline Surveys [40 CFR 228.6(a)(9)]

Environmental surveys of the site were conducted in 1979 by an EPA contractor. The study revealed coastal water similar in water quality and thermohaline structure to other coastal areas of New York and New Jersey. The benthic community was dominated by deposit-feeders, ubiquitous throughout the study area, but very patchily distributed. These species are opportunistic and characteristic of sandy, dynamic environments. The fauna at the proposed site are thus well adapted to survive future disposal operatons.

D.5.10. Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site [40 CFR 228.6(a)(10)]

Previous disposal at the proposed Shark River site has not caused any development of nuisance species at the site. There are no components in the dredged material which would attract or recruit nuisance species to the site.

D.5.11. Existence at or in Close Proximity to the Site of Any Significant Natural or Cultural Feature of Historical Importance [40 CFR 228.6(a)(11)]

No such areas have been identified at the proposed Shark River site or in areas likely to be affected by dredged material disposal at the site.

D.6 Manasquan

D.6.1. Geographical Position, Depth of Water, Bottom Topography, and Distance From Coast [40 CFR 228.6(a)(1)]

The proposed site, Manasquan, is approximately 0.11 square nautical miles in size. Its corner coordinates are given above. Water depth is approximately 7 meters. The site is located approximately 0.3 nautical miles northeast of Manasquan Inlet, New Jersey, and is approximately 0.25 nautical miles offshore. The bottom topography is characterized by ridges and swales. The sediment composition at the site averages 89.9% sand, 8.5% silt and clay, and 1.6% gravel.

D.6.2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases [40 CFR 228.6(a)(2)]

The site does not encompass any known unique breeding, spawning, nursery, or passage areas of nekton, marine mammals, or birds. Marine mammals including whales, dolphins, and sea turtles frequent the New York Bight on a seasonal basis, and shellfish grounds including clams, quahogs, scallops, and lobsters can be found throughout the Bight. The Bight also supports large commercial and recreational fisheries. The proposed dredged material disposal site was selected because of its location outside of major commercial and recreational fishing areas, and does not consititute a unique site within the Bight or any of these species.

D.6.3. Location in Relation to Beaches and Other Amenity Areas

The proposed site is aproximately 0.25 nautical miles offshore. Manasquan Inlet and nearby beaches provide important recreational areas and many tourists utilize these areas during the summer months. However, the release of material at the site is not expected to adversely affect the shorelines public health or aesthetics. Furthermore, Manasquan Inlet and the proposed site are located within shellfish closure areas.

D.6.4. Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, if Any [40 CFR 228.6(a)(4)]

In the past, this site has received approximately 80,000 cubic yards of material bi-annually. Only dredged material consisting of sands, silts, and clays will be disposed of at the site. All

dredged materials must satisfy EPA criteria before any permits for ocean dumping are granted. None of the material will be packaged in any way. The dredged material from the Inlet, disposed of at this site in the past has been at least 80% sand.

D.6.5. Feasibility of Surveillance and Monitoring [40 CFR 228.6(a)(5)]

Surveillance of disposal operations at the proposed site could be achieved from shore, helicopter, or shiprider. Periodic monitoring by EPA, the Corps of Engineers, and permittees will continue for as long as the site is used. Additional monitoring will be required if dredging volumes and/or characteristics of the dredged material are changed significantly to assure that adverse impacts do not develop. Periodic reports of monitoring operations will be made available to interested persons upon request. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at the site.

D.6.6. Dispersal, Horizontal Transport, and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if Any [40 CFR 228.6(a)(6)]

Dredged materials characteristically exhibit dispersion of fine material and subsequent elevated levels of suspended sediment and turbidity when they are disposed. The material to be dredged from Manasquan Inlet is similar in composition to the disposal site and is composed primarily of sand, minimizing the degree of resuspension and increase in turbidity. Generally, nearshore current flows are towards the southwest and onshore. In general, transport of suspended solids from dredged material disposal will depend primarily upon the speed and direction of the wind and upon the direction of tidal currents.

D.6.7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) [40 CFR 228.6(a)(7)]

Chemical and biological data suggest that previous dumping of dredged material at the site has produced no significant adverse impacts on the water quality at the proposed site. EPA contracted survey data did not indicate any trends attributable to previous or current disposal of dredged material. No major differences in finfish and shellfish species or numbers were found in the surveys within and adjacent to the site.

D.6.8. Interference With Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance, and Other Legitimate Uses of the Ocean [40 CFR 228.6(a)(8)]

The proposed Manasquan site is not located within a major shipping lane. No navigational problems related to dredged material disposal at this site have been reported to date. No mineral extraction or fish and shellfish culture exist or are planned near the dumpsite. Desalination does not occur near the site. There are no unique resources of special scientific importance in the disposal area due to the small size of the disposal area in relation to the New York Bight.

D.6.9. The Existing Water Quality and Ecology of the Site as Determined by Available Data or by Trend Assessment or Baseline Surveys [40 CFR 228.6(a)(9)]

Environmental surveys of the site were conducted in 1979 by an EPA contractor. The study revealed coastal water similar in water quality and thermohaline structure to other coastal areas of New York and New Jersey. The benthic community was dominated by deposit-feeders, ubiquitous throughout the study area, but very patchily distributed. These species are opportunistic and characteristic of sandy, dynamic environments. The fauna at the proposed site are thus well adapted to survivie future disposal operations.

D.6.10. Potentiality for the Development or recruitment of nuisance species in the disposal site. [40 CFR 228.6(a)(10)]

Previous disposal at the proposed Manasquan site has not caused any development of nuisance species at the site. There are no components in the dredged material which would attract or recruit nuisance species to the site.

D.6.11. Existence at or in Close Proximity to the Site of Any Significant Natural or Cultural Feature of Historical Importance [40 CFR 228.6(a)(11)]

No such areas have been identified at the proposed Manasquan site or in areas likely to be affected by dredged material disposal at the site.

D. 7 Absecon

D.7.1. Geographical Position, Depth of Water, Bottom Topography, and Distance From Coast [40 CFR 228.6(a)(1)]

The proposed site, Absecon, is approximately 0.28 square nautical miles in size. Its corner coordinates are given above. Water depth is approximately 18 meters. The site is located approximately 0.5 nautical miles southeast of Absecon Inlet, New Jersey, and is approximately 5.5 nautical miles offshore. The bottom topography is characterized by ridges and swales. The sediment composition at the site averages 92.8% land, 7.0% silt and clay, and 0.2% gravel.

D.7.2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases [40 CFR 228.6(a)(2)]

The site does not encompass any known unique breeding, spawning, nursery, or passage areas of nekton, marine mammals, or birds. Marine mammals including whales, dolphins, and sea turtles frequent the New York Bight on a seasonal basis, and shellfish grounds including clams, quahogs, scallops, and lobsters can be found throughout the Bight. The Bight also supports large commercial and recreational fisheries. The proposed dredged material disposal site was selected because of its location outside of major commercial and recreational fishing areas, and does not constitute a unique site within the Bight or any of these species.

D.7.3. Location in Relation to Beaches and Other Amenity Areas

The proposed site is approximately 5.5 nautical miles offshore. Absecon Inlet and nearby beaches provide important recreational areas and many tourists utilize these areas during the summer months. However, the release of material at the site is not expected to adversely affect the shoreline, public health, or aesthetics.

D.7.4. Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, if Any [40 CFR 228.6(a)(4)]

In the past, this site has received approximately 200,000 cubic yards of material every year. Only dredged material consisting of sands, silts, and clays will be disposed of at the site. All dredged materials must satisfy EPA criteria before any permits for ocean dumping are granted. None of the material will be packaged in any way. The dredged material from the Inlet, disposed of at this site in the past has been at least 80% sand.

D.7.5. Feasibility of Surveillance and Monitoring [40 CFR 228.6(a)(5)]

Surveillance of disposal operations at the proposed site could be achieved from shore, helicopter, or shiprider.

Periodic monitoring by EPA, the Corps of Engineers, and permittees will continue for as long as the site is used. Additional monitoring will be required if dredging volumes and/or characteristics of the dredged material change significantly to ensure that adverse impacts do not develop. Periodic reports of monitoring operations will be made available to interested persons upon request. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at the site.

D.7.6. Dispersal, Horizontal Transport, and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if any [40 CFR 228.6(a)(6)]

Dredged materials characteristically exhibit dispersion of fine material and subsequent elevated levels of suspended sediment and turbidity when they are disposed. The material to be dredged from Absecon Inlet is similar in composition to the disposal site and is composed primarily of sand, minimizing the degree of resuspension and increase in turbidity. Generally, nearshore current flows are towards the southwest and onshore. In general, transport of suspended solids from dredged material disposal will depend primarily upon the speed and direction of the wind and upon the direction of tidal currents.

D.7.7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) [40 CFR 228.6(a)(7)]

Chemical and biological data suggest that previous dumping of dredged material at the site has produced no significant adverse impacts on the water quality at the proposed site. EPA contracted survey data did not indicate any trends attributable to previous or current disposal of dredged material. No major differences in finfish and shellfish species or numbers were found in the surveys within and adjacent to the Site.

D.7.8. Interference With Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance, and Other Legitimate Uses of the Ocean. [40 CFR 228.6(a)(8)]

The proposed Absecon site is not located within a major shipping lane. No navigational problems related to dredged material disposal at this site have been reported to date. No mineral extraction or fish and shellfish culture exist or are planned near the dumpsite. Desalination does not occur near the site. There are no unique resources of special scientific importance in the disposal area due to the small size of the disposal area in relation to the New York Bight.

D.7.9. The Existing Water Quality and Ecology of the Site as Determined by Available Data or by Trend Assessment or baseline surveys [40 CFR 228.6(a)(9)]

Environmental surveys of the site were conducted in 1979 by an EPA contractor. The study revealed coastal water similar in water quality and thermohaline structure to other coastal areas of New York and New Jersey. The benthic community was dominated by deposit-feeders, ubiquitous throughout the study area, but very patchily distributed. These species are opportunistic and characteristic of sandy, dynamic environments. The fauna at the proposed site are thus well adapted to survive future disposal operations.

D.7.10. Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site [40 CFR 228.6(a)(10)]

Previous disposal at the proposed Absecon site has not caused any development of nuisance species at the site. There are no components in the dredged material which would attract or recruit nuisance species to the site.

D.7.11. Existence at or in Close Proximity to the Site of any Significant Natural or Cultural Feature of Historical Importance [40 CFR 228.6(a)(11)]

No such areas have been identified at the proposed Absecon site or in areas likely to be affected by dredged material disposal at the site.

D.8 Cold Spring

D.8.1. Geographical Position, Depth of Water, Bottom Topography, and Distance From Coast [40 CFR 228.6(a)(1)]

The proposed site, Cold Spring, is approximately 0.13 square nautical miles in size. Its corner coordinates are given above. Water depth is approximately 9 meters. The site is located approximately 1.0 nautical miles southwest of Cold Spring Inlet, New Jersey, and is approximately 0.7 nautical miles offshore. The bottom topography is characterized by ridges and swales. The sediment composition at the site averages 96.5% sand, 2.7% silt and clay, and 0.8% gravel. Furthermore, Cold Spring Inlet and the proposed site are located within shellfish closure zones.

D.8.2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases [40 CFR 228.6(a)(2)]

The site does not encompass any known unique breeding, spawning, nursery, or passages areas of nekton, marine mammals, or birds. Marine mammals including whales, dolphins, and sea turtles frequent the New York Bight on a seasonal basis, and shellfish grounds including clams, quahogs, scallops, and lobsters can be found throughout the Bight. The Bight also supports large commercial and recreational fisheries. The proposed dredged material disposal site was selected because of its location outside of major commercial and recreational fishing areas, and does not constitute a unique site within the Bight or any of these species.

D.8.3. Location in Relation to Beaches and Other Amenity Areas

The proposed site is approximately 0.7 nautical miles offshore. Cold Spring Inlet and nearby beaches provide important recreational areas and many tourists utilize these areas during the summer months. However, the release of material at the site is not expected to adversely affect the shoreline, public health, or aesthetics. Furthermore, Cold Spring Inlet and the proposed site are within shellfish closure areas.

D.8.4. Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, if Any. [40 CFR 228.6(a)(4)]

In the past, this site has received approximately 50,000 cubic yards of material bi-annually. Only dredged material consisting of sands, silts, and clays will be disposed of at the site. All dredged materials must satisfy EPA criteria before any permits for ocean dumping are granted. None of the material will be packaged in any way. The dredged material from the Inlet, disposed of at this site in the past has been primarily sand.

D.8.5. Feasibility of Surveillance and Monitoring [40 CFR 228.6(a)(5)]

Surveillance of disposal operations at the proposed site could be achieved from shore, helicopter, or shiprider. Periodic monitoring by EPA, the Corps of Engineers, and permittees will continue for as long as the site is used. Additional monitoring will be required if dredging volumes and/or characteristics of the dredged material change significantly to ensure that adverse impacts do not develop. Periodic reports

of monitoring operations will be made available to interested persons upon request. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at the site.

D.8.6 Dispersal, Horizontal Transport, and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if Any [40 CFR 228.6(a)(6)].

Dredged materials characteristically exhibit dispersion of fine material and subsequent elevated levels of suspended sediment and turbidity when they are disposed. The material to be dredged from Cold Spring Inlet is similar in composition to the disposal site and is composed primarily of sand, minimizing the degree of resuspension and increase in turbidity. Generally, nearshore current flows are towards the southwest and onshore. In general, transport of suspended solids from dredged material disposal will depend primarily upon the speed and direction of the wind and upon the direction of tidal currents.

D.8.7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) [40 CFR 228.6)(a)(7)]

Chemical and biological data suggest that previous dumping of dredged material at the site has produced no significant adverse impacts on the water quality at the proposed site. EPA contracted survey data did not indicate any trends attributable to previous or current disposal of dredged material. No major differences in finfish and shellfish species or numbers were found in the surveys within and adjacent to the site.

D.8.8. Interference With Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance, and Other Legitimate Uses of the Ocean [40 CFR 228.6(a)(8)]

The proposed Cold Spring site is not located within a major shipping lane. No navigational problems related to dredged material disposal at this site have been reported to date. No mineral extraction or fish and shellfish culture exist or are planned near the dumpsite. Desalination does not occur near the site. There are no unique resources of special scientific importance in the disposal area due to the small size of the disposal area in relation to the New York Bight.

D.8.9. The Existing Water Quality and Ecology of the Site as Determined by Available Data or by Trend Assessment or Baseline Survey [40 CFR 228.6(a)(9)]

Environmental surveys of the site were conducted in 1979 by an EPA contractor. The study revealed coastal water similar in water quality and thermohaline structure to other coastal areas of New York and New Jersey. The benethic community was dominated by deposited-feeders, ubiquitous throughout the study area, but very patchily distributed. These species are opportunistic and characteristic of sandy, dynamic environments. The fauna at the proposed site are thus well adapted to survive future disposal operations.

D.8.10. Potentiality for Development or Recruitment of Nuisance Species in the Disposal Site [40 CFR 228.6(a)(10)]

Previous disposal at the proposed Cold Spring site has not caused any development of nuisance species at the site. There are no components in the dredged material which would attract or recruit nuisance species to the site.

D.8.11 Existence at or in Close Proximity to the Site of Any Significant Natural or Cultural Feature of Historical Importance [40 CFR 228.6(a)(11)]

No such areas have been identified at the proposed Cold Spring site or in areas likely to be affected by dredged material disposal at the site. E. Proposed Action

E. Proposed Action

The EIS concludes that the proposed sites may appropriately be designated for use. The proposed sites are compatible with the general criteria and specific factors used for site evaluation.

The designation of the Rockaway, East Rockaway, Jones, Fire Island, Shark River, Manasquan, Absecon, and Cold Spring sites as EPA approved ocean dumping sites is being published as proposed rulemaking. Management of these sites will be designated to the Regional Administrator of Region II.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at a site may commence, the U.S. Army Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. EPA has the right to disapprove the actual dumping if it determines that environmental concerns under the Act have not been met.

F. Regulatory Assessments

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

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

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

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: May 18, 1988.

Christopher J. Daggett,

Regional Administrator for Region II.

In consideration of the foregoing, subchapter H of Chapter I of Title 40 is proposed to be amended as set forth below.

PART 288—[AMENDED]

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

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

2. Section 228.12 is amended by removing the following entries from the "Dredged Material Site" list in paragraph (a)(3): Rockaway Inlet, Long Island, New York; East Rockaway Inlet, Long Island, New York; Jones Inlet, Long Island, New York; Fire Island Inlet, Long Island, New York; Shark River Inlet, New Jersey; Manasquan Inlet, New Jersey; Absecon Inlet, New Jersey; Cold Spring Inlet, New Jersey; and by removing and reserving paragraph (a)(1)(i)(G) and adding paragraphs (b)(60) through (b)(67) to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(60) Rockaway Inlet, Long Island, New York Dredged Material Disposal Site—Region II

Location: 40°32'30" N, 73°55'00" W; 40°32'30" N, 73°54'00" W; 40°32'30" N, 73°54'00" W; 40°32'30" N, 73°55'00" W.
Size: Approximately 0.38 square nautical miles
Depth: Ranges from 8 to 11 meters
Primary Use: Dredged material disposal
Period of Use: Continuing Use
Restrictions: Disposal shall be limited to dredged material from Rockaway Inlet, Long Island, New York.

(61) East Rockaway Inlet, Long Island, New York Dredged Material Disposal Site—Region II

Location: 40°34'36" N, 73°49'00" W; 40°35'06" N, 73°47'06" W; 40°34'10" N, 73°48'36" W; 40°34'12" N, 73°47'17" W.
Size: Approximately 0.81 square nautical miles
Depth: Ranges from 6 to 9 meters
Primary Use: Dredged material disposal
Period of Use: Continuing Use
Restrictions: Disposal shall be limited to dredged material from East Rockaway Inlet, Long Island, New York.

(62) Jones Inlet, Long Island, New York Dredged Material Disposal Site—Region II

Location 40°34'32" N, 73°39'14" W; 40°34'32" N, 73°37'06" W; 40°33'48" N, 73°37'06" W; 40°33'48" N, 73°39'14" W.
Size: Approximately 1.19 square nautical miles
Depth: Ranges from 7 to 10 meters
Primary Use: Dredged material disposal
Period of Use: Continuing Use
Restrictions: Disposal shall be limited to dredged material from Jones Inlet, Long Island, New York.

(63) Fire Island Inlet, Long Island, New York Dredged Material Disposal Site—Region II

Location 40°36'49" N, 73°23'50" W; 40°37'12" N, 73°21'30" W; 40°36'41" N, 73°21'20" W; 40°36'10" N, 73°23'40" W.
Size: Approximately 1.09 square nautical miles
Depth: Ranges from 7 to 10 meters
Primary Use: Dredged material disposal
Period of Use: Continuing Use
Restrictions: Disposal shall be limited to dredged material from Fire Island Inlet, Long Island, New York.

(64) Shark River, New Jersey Dredged Material Disposal Site—Region II

Location 40°12'48" N, 73°59'45" W; 40°12'44" N, 73°59'06" W; 40°11'36" N, 73°59'28" W; 40°11'42" N, 74°00'12" W.
Size: Approximately 0.6 square nautical miles
Depth: Approximately 12 meters
Primary Use: Dredged material disposal
Period of Use: Continuing Use
Restrictions: Disposal shall be limited to dredged material from Shark River Inlet, New Jersey.

(65) Manasquan, New Jersey Dredged Material Disposal Site—Region II

Location 40°06'36" N, 74°01'34" W; 40°06'19" N, 74°01'39" W; 40°06'18" N, 74°01'53" W; 40°06'41" N, 74°01'51" W.
Size: Approximately 0.11 square nautical miles
Depth: Approximately 7 meters
Primary Use: Dredged material disposal
Period of Use: Continuing Use
Restrictions: Disposal shall be limited to dredged material from Manasquan Inlet, New Jersey.

(66) Absecon Inlet, New Jersey Dredged Material Disposal Site—Region II

Location 39°20'39" N, 74°18'43" W; 39°20'30" N, 74°18'25" W; 39°20'03" N, 74°18'43" W; 39°20'12" N, 74°19'01" W.
Size: Approximately 0.28 square nautical miles
Depth: Approximately 18 meters
Primary Use: Dredged material disposal
Period of Use: Continuing Use
Restrictions: Disposal shall be limited to dredged material from Absecon Inlet, New Jersey.

(67) Cold Spring Inlet, New Jersey Dredged Material Disposal Site—Region II

Location 38°55'52" N, 74°53'04" W; 38°55'37" N, 74°52'55" W; 38°55'23" N, 74°53'27" W; 38°55'36" N, 74°53'36" W.
Size: Approximately 0.13 square nautical miles
Depth: Approximately 9 meters
Primary Use: Dredged material disposal
Period of Use: Continuing Use
Restrictions: Disposal shall be limited to dredged material from Cold Spring Inlet, New Jersey.

[FR Doc. 88-12197 Filed 5-31-88; 8:45 am]
BILLING CODE 6560-50-M

---

40 CFR Part 763

[OPTS-62036F; FRL-3390-6]

Asbestos; Release of Information for Public Comment; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for public comment on eight documents supporting the final rule to ban and phase out the use of asbestos. The eight documents, which are set forth in the Supplementary Information, were added to the public docket on April 1, 1988 and on May 4, 1988. EPA has received several requests to extend the comment period and has decided to extend the comment period on all eight documents.

DATE: Comments on the documents should be received by June 30, 1988.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW., Washington, DC 20460, (202 554-1404).

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency (EPA) proposed a rule to ban and phase out the use the use of asbestos that was published in the Federal Register on January 29, 1986 (51 FR 3738). Since that time, the Agency has reviewed numerous comments on the proposal and testimony from the legislative hearings and the cross-examination proceedings. As a result of this process EPA has updated the data base and analyses that will be used to support the final rule.

On April 1, 1988, EPA placed the following documents in the public rulemaking docket: the Asbestos Exposure Assessment, the Asbestos Modeling Study, the Nonoccupational Asbestos Exposure Report, and the Regulatory Impact Analysis (53 FR 10546). EPA allowed interested persons until May 31, 1988, to comment on these four documents, which were primarily updates of documents previously released for public comment in conjunction with the January 29, 1986 proposed rule.

On May 4, 1988, four additional documents were placed in the public docket: the Health Hazard Assessment of Non-Asbestos Fibers, the Review of Recent Epidemiological Investigations on Populations Exposed to Selected Non-Asbestos Fibers, the Durable Fiber Exposure Assessment, and the Durable Fiber Industry Profile and Market Outlook (53 FR 15857). These documents updated the factual information on fibers that are substitutes for asbestos. The Agency established June 14, 1988 as the deadline for public comment on these four latter documents.

EPA has received several requests for an extension of the comment period on the grounds that, among other reasons, the time period for comment was insufficient in light of the amount of information in these documents. The Agency believes the time allowed for comment is adequate and reasonable in view of the nature of these records, but in the interest of receiving informed

comment, EPA has decided to extend the comment period to June 30, 1988 on all documents related to the asbestos ban and phase out rule which were recently placed in the public docket.

List of Subjects in 40 CFR Part 763

Environmental protection, Hazardous substances, Reporting and recordkeeping requirements, Asbestos.

Dated: May 26, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 88-12361 Filed 5-27-88; 2:54 pm]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

Transportation Documentation and Audit; Revision of Standard Form 1170, Redemption of Unused Tickets

AGENCY: Federal Supply Service, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) proposes to amend the Federal Property Management Regulations, Part 101-41 by revising Standard Form (SF) 1170, Redemption of Unused Tickets, to make it suitable for automated preparation. Currently, the SF 1170 is 3¼ by 7⅜ inches and consists of an original and three copies assembled in snapout carbon-interleaved sets. The original and the last copy are of buff-punched-card stock and the remaining copies are of white paper stock. Although the present card stock form is durable and easy to file, it is difficult to prepare using electronic data processing (EDP) printers. The GSA proposes to make the SF 1170 available in both standard 8½ by 11-inch paper stock (as pin-fed sets of three), and in EDP format, thereby enabling form preparation on either typewriters or automated printers.

DATE: Comments must be received no later than July 1, 1988.

ADDRESS: Comments should be sent to the General Services Administration (FWCP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Review Branch, Office of Transportation Audits, (Commercial 202-786-3065 or FTS 786-3065).

SUPPLEMENTARY INFORMATION: GSA proposes that the current punched-card format SF 1170 be replaced with: (a) Pre-printed set of three SF 1170's on standard 8½ by 11-inch, four part carbon-interleaved paper with ½-inch pin-fed strips on the margins, and with perforations between each form, and (b) a prescribed SF 1170-EDP format for use on blank 8½ by 11-inch, four part carbon-interleaved computer paper with positioning instructions. Both replacements, like the current SF 1170, would be suitable for mailing in a standard window envelope. The positioning instructions would read as follows: "Name and address of carrier must begin at line 13, column 9, and must be no longer than 31 characters and 5 lines. Name and address of agency to which refund is to be made must begin at line 13, column 48, and must be no longer than 31 characters and 5 lines. Fold marks must be located at line 22 and line 45."

The GSA has determined that this rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the GSA has also determined that this final rule will not have a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis has been prepared.

The reporting forms required by this regulation are not subject to the provisions of Pub. L. 96-511, the Paperwork Reduction Act of 1980, and FIRMR 201-45.6.

List of Subjects in 41 CFR Part 101-41

Accounting, Air Carriers, Claims, Passenger service, Transportation.

GSA proposes to amend 41 CFR Part 101-41 as follows:

PART 101-41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. The authority citation for Part 101-41 continues to read as follows:

Authority: 31 U.S.C. 3726 and 40 U.S.C. 486(c).

Subpart 101-41.2—Passenger Transportation Services Furnished for the Account of the United States

2. Section 101-41.202 is amended by adding paragraph (h) to read as follows:

§ 101-41.202 Standard forms relating to passenger transportation.

* * * * *

(h) SF 1170-EDP (Electronic Data Processing), Redemption of Unused Tickets, (Computer-generated).

3. Section 101-41.202-2 is revised to read as follows:

§ 101-41.202-2 SF 1170, Redemption of Unused Tickets.

(a) SF 1170 and SF 1170-EDP (computer-generated) consist of an original and three copies which are carbon-interleaved for simultaneous preparation.

(b) Three SF's 1170 are printed on standard 8½ by 11-inch, four part carbon-interleaved paper with ½-inch pin-fed strips on the margins, and perforations between each form.

(c) SF 1170-EDP (computer-generated) must be printed on standard 8½ by 11-inch, four part carbon-interleaved paper with ½-inch pin-fed strips on the margins. SF 1170-EDP must be positioned so that the name and address of the carrier begin at line 13, column 9, and must be no longer than 31 characters and 5 lines. The name and address of the agency to which the refund is to be made must begin at line 13, column 48, and must be no longer than 31 characters and 5 lines. Fold marks must be located at line 22 and line 45. The SF 1170-EDP must conform to the exact wording as the approved Standard Form.

4. Section 101-41.202-5 is amended by revising paragraph (a) as follows:

§ 101-41.202-5 Procurement of standard forms by agencies and carriers.

(a) Agencies may obtain supplies of SF 1169 and SF 1170 assemblies from GSA by submitting a requisition in FEDSTRIP/MILSTRIP format to GSA's Federal Supply Service, Furniture Commodity Center (FCNI), Washington, DC 20406. With respect to the GTR assemblies, FCNI maintains a record of the serial numbers imprinted on the forms and the names and mailing addresses of the receiving agencies. Where feasible, agencies should request that the name and address of the office to be billed for payment of charges be preprinted on each SF 1169 and that the name and address of the office to receive the refund be preprinted on each SF 1170. No other overprinting on SF 1169, SF 1170, or SF 1170–EDP (computer-generated) is permitted unless specifically approved in writing by the Director, Office of Transportation Audits (FW), GSA.

* * * * *

§ 101-41.4901-1170 [Revised]

5. Section 101–41.4901–1170 is revised.

(Note: SF 1170 is being revised; however, it will not be published in the final rule. A facsimile of the proposed three set SF 1170 and the proposed EDP format SF 1170 are illustrated in Attachment A of this proposed rule.)

Dated: May 10, 1988.

Donald C. J. Gray,

Commissioner, Federal Supply Service.

BILLING CODE 6820-24-M

Attachment A

SF 1170, Redemption of Unused Tickets

REDEMPTION OF UNUSED TICKETS — *Original*

GOVERNMENT TRANSPORTATION REQUEST (GTR) No. ▶

DATE | APPROPRIATION | DATE GTR ISSUED | PLACE ISSUED

FILE REFERENCE

ORIGIN | DESTINATION

FORM NO	TICKET NO	NO. OF PASSENGERS OR NO. & TYPE OF ACCOMMODATIONS	UNUSED FROM	UNUSED TO	FOR CARRIER'S USE ONLY	AMOUNT OF REFUND
REMARKS					TOTAL	

[ ] *(Name and address of carrier)*

[ ] *(Name and address of agency to which refund is to be made)*

Attention: Refund is requested for unfurnished passenger transportation services indicated above, any unused tickets involved are attached

● See detailed instructions on reverse

1170-106

STANDARD FORM 1170 (REV. 11-85) PRESCRIBED BY GSA, FPMR (41 CFR) 101-41.2

REDEMPTION OF UNUSED TICKETS — *Original*

GOVERNMENT TRANSPORTATION REQUEST (GTR) No. ▶

DATE | APPROPRIATION | DATE GTR ISSUED | PLACE ISSUED

FILE REFERENCE

ORIGIN | DESTINATION

FORM NO	TICKET NO	NO. OF PASSENGERS OR NO. & TYPE OF ACCOMMODATIONS	UNUSED FROM	UNUSED TO	FOR CARRIER'S USE ONLY	AMOUNT OF REFUND
REMARKS					TOTAL	

[ ] *(Name and address of carrier)*

[ ] *(Name and address of agency to which refund is to be made)*

Attention: Refund is requested for unfurnished passenger transportation services indicated above, any unused tickets involved are attached

● See detailed instructions on reverse

1170-106

STANDARD FORM 1170 (REV. 11-85) PRESCRIBED BY GSA, FPMR (41 CFR) 101-41.2

REDEMPTION OF UNUSED TICKETS — *Original*

GOVERNMENT TRANSPORTATION REQUEST (GTR) No. ▶

DATE | APPROPRIATION | DATE GTR ISSUED | PLACE ISSUED

FILE REFERENCE

ORIGIN | DESTINATION

FORM NO	TICKET NO	NO. OF PASSENGERS OR NO. & TYPE OF ACCOMMODATIONS	UNUSED FROM	UNUSED TO	FOR CARRIER'S USE ONLY	AMOUNT OF REFUND
REMARKS					TOTAL	

[ ] *(Name and address of carrier)*

[ ] *(Name and address of agency to which refund is to be made)*

Attention: Refund is requested for unfurnished passenger transportation services indicated above, any unused tickets involved are attached

● See detailed instructions on reverse

1170-106

STANDARD FORM 1170 (REV. 11-85) PRESCRIBED BY GSA, FPMR (41 CFR) 101-41.2

Attachment A

SF 1170-EDP (Electronic Data Processing)
Redemption of Unused Tickets, (Computer-generated)

REDEMPTION OF UNUSED TICKETS - ORIGINAL

DATE | APPROPRIATION | CONTROL NO.

FILE REFERENCE	GOVERNMENT REQUEST (GTR) TRANSPORTATION NO.	DATE GTR ISSUED	PLACE GTR ISSUED

(NAME AND ADDRESS OF CARRIER)

(NAME AND ADDRESS OF AGENCY TO WHICH REFUND IS TO BE MADE)

GENTLEMEN: REFUND IS REQUESTED FOR UNFURNISHED TRANSPORTATION SERVICES INDICATED BELOW: ANY UNUSED TICKETS INVOLVED ARE ATTACHED.

ORIGIN | DESTINATION | FOR CARRIER'S USE ONLY

FORM NO. REFUND	TICKET NO.	PAX/ACCOM.*	UNUSED FROM	UNUSED TO	AMOUNT OF REFUND

*NO. OF PASSENGERS OR NO. & TYPE OF ACCOMMODATION | TOTAL $

REMARKS

INSTRUCTIONS

1. CARRIERS SHOULD NOT EFFECT ADJUSTMENT BY CREDITING THE VALUE OF UNUSED TICKETS IN PRESENTING CHARGES ON OTHER BILLS. 2. CARRIERS SHOULD NOT REQUEST THE AGENCY TO FURNISH ANY PAYMENT OR BILLING IDENTIFICATION OF THE BILL WHICH COVERED THE CHARGES ON THE U.S. GOVERNMENT TRANSPORTATION REQUEST INVOLVED. 3. THE VALUE OF EACH UNUSED TICKET THAT APPEARS IN THE LISTING SHOULD BE INSERTED BY THE CARRIER ON THE ORIGINAL COPY OF THIS FORM IN THE COLUMN CAPTIONED "AMOUNT OF REFUND." 4. THE ORIGINAL COPY SHOULD BE RETURNED TO THE AGENCY SPECIFIED ABOVE WITH THE CHECK COVERING THE REFUND DUE. CHECK MAY BE MADE PAYABLE TO THE AGENCY OR THE "TREASURER OF THE UNITED STATES."

NOTICE

THIS DEBT IS NOW DUE. PAYMENT SHOULD BE MADE PROMPTLY. INTEREST ON THIS DEBT ACCRUES FROM THE DATE OF THIS NOTICE. SUCH INTEREST BECOMES PAYABLE AND THIS DEBT BECOMES SUBJECT TO ADMINISTRATIVE COSTS AND PENALTY CHARGES, IF IT IS NOT PAID WITHIN 30 DAYS OF THE DATE OF THIS NOTICE. IN ORDER TO AVOID SUCH INTEREST, ADMINISTRATIVE COSTS, AND PENALTY CHARGES, THE AMOUNT DUE MUST BE PAID WITHIN 30 DAYS OF THE DUE DATE OF THIS NOTICE. IF NECESSARY, IT IS THE INTENTION OF THE AGENCY TO WHICH REFUND IS TO BE MADE TO COLLECT THIS CLAIM BY ADMINISTRATIVE SETOFF. YOU MAY INSPECT AND COPY AGENCY RECORDS PERTINENT TO THIS DEBT, OBTAIN AN AGENCY REVIEW OF THE DECISION RELATED TO THE DEBT, AND PROPOSE A WRITTEN AGREEMENT WITH THE AGENCY FOR THE REPAYMENT OF THE DEBT.

STANDARD FORM 1170-EDP (1/88)
PRESCRIBED BY GSA, FPMR (41 CFR)101-41.2

NOTE: Name and address of carrier must begin at line 13, column nine, and must be no longer than 31 characters and five lines. Name and address of agency to which refund is to be made must begin at line 13, column 48, and must be no longer than 31 characters and five lines. Fold marks must be located at line 22 and line 45.

2

[FR Doc. 88-11546 Filed 5-31-88; 8:45 am]
BILLING CODE 6820-24-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435, 440, and 441

[BERC-389-P]

Medicaid Program; Home and Community-Based Services and Respiratory Care for Ventilator-Dependent Individuals

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposal would revise the regulations for home and community-based services as required by the Consolidated Omnibus Budget Reconciliation Act of 1985 and the Omnibus Budget Reconciliation Act of 1986. Also, this proposal would provide for respiratory care services as medical assistance under State plans in accordance with the Omnibus Budget Reconciliation Act of 1986.

DATE: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on July 31, 1988.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-389-P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC-389-P. Comments received timely will be available for public inspection as they are received, which generally begins approximately three weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT:

Thomas Hoyer (301) 966-4607
Home and Community-Based Waivers
Marinos T. Svolos (301) 966-4451
Post-Eligibility Treatment of Income and Resources

SUPPLEMENTARY INFORMATION:

I. Background

A. Home and Community-Based Services Waivers

Until the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) was enacted on August 13, 1981, the Medicaid program (Title XIX of the Social Security Act (the Act)) provided little coverage for long term care services in a noninstitutional setting. Many elderly, disabled, and chronically ill persons were living in institutions not for medical reasons, but because of the paucity of health and social services available to them in their homes and communities. Further, even where the necessary services were available outside the institution, individuals were sometimes unable to pay for them and they were not covered by Medicaid.

Section 2176 of Pub. L. 97-35 added new section 1915(c) to the Act to encourage the provision of services to Medicaid recipients in noninstitutional settings. This section authorizes the Secretary to waive Medicaid statutory requirements to enable a State to cover a broad array of home and community-based services. These services must be furnished pursuant to an individually written plan of care and can be furnished only to persons who would otherwise require the level of care provided in a skilled nursing facility (SNF), an intermediate care facility (ICF), or an intermediate care facility for the mentally retarded (ICF/MR), the cost of which could be reimbursable under the State's plan.

The statute requires the State to provide us with specific assurances before we can approve a home and community-based services waiver. The original statute provides that a home and community-based services waiver can include waivers of "statewideness" (section 1902(a)(1) of the Act), which requires a State plan for medical assistance to be in effect throughout the State, and "amount, duration, and scope" of services (section 1902(a)(10) of the Act), which sets forth certain Medicaid eligibility and service coverage requirements.

The original statute provides that approved home and community-based services waivers are granted for an initial term of three years and can be extended for additional three-year periods. We may approve waiver extensions if a State requests an extension, the extension request meets the waiver requirements for the extended period, and we determine that the State met all the required assurances for the term of the initial waiver.

Home and community-based services are those services provided under the waiver that are not otherwise available under the State's Medicaid plan. Prior to the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272), on April 7, 1986, and of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99-509) on October 21, 1986, the waiver allowed a State to receive Federal matching funds (that is, Federal financial participation (FFP) under Title XIX of the Act) for case management, homemaker services, home health aide, personal care, adult day health care, habilitation, respite care, and "other" services as requested by the State and approved by the Secretary.

We issued regulations for home and community-based services (42 CFR Parts 435, 440, and 441) in the Federal Register in an October 1, 1981 interim final rule (46 FR 48532). We subsequently revised those regulations in a March 13, 1985 final rule (50 FR 10013).

B. Respiratory Care Services

Until the enactment of Pub. L. 99-509, the Medicaid statute did not permit payment for respiratory therapy services in a patient's home as a separate and distinct State plan service. Such services could only be provided as a component of other State plan services or as a home and community-based service under a section 1915(c) waiver. For example, respiratory therapy services at home were available when provided as a medically necessary component of covered home health nursing services. States also had the option of providing respiratory therapy services as an element of three other optional Medicaid benefits; medical or remedical care provided by a licensed practitioner, private duty nursing, or rehabilitative services. Thus, when respiratory care has been available previously under the Medicaid State plan, it was provided as a part of a broader coverage authority. Because these authorities do not allow respiratory care services to be directed only to a specific population but require that such services be made available to all beneficiaries, very few States have been providing coverage for respiratory care services. Moreover, while respiratory care services could be provided to a specific population under a home and community-based services waiver, State use of this vehicle to provide coverage has also been limited.

II. Legislation

Section 9502 of Pub. L. 99-272, and sections 9408 and 9411 of Pub. L. 9-509, made various revisions to the home and community-based services provisions in section 1915(c) of the Act and provided

for coverage of respiratory therapy care services.

A. Consolidated Omnibus Budget Reconciliation Act of 1985

The statutory changes made by Pub. L. 99–272 are as follows:

1. Explicit inclusion of certain prevocational and educational services.

Section 9502(a) of Pub. L. 99–272 added a new section 1915(c)(5) to the Act. This new provision allows a State to request HCFA's approval to include certain services in its definition of "habilitation services" for individuals who receive waiver services directly after discharge from an SNF or ICF (including ICF/MR). Habilitation services are defined as services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings. The services may now include prevocational, educational, and supported employment services but do not include—

- Special education and related services, as defined in section 4(a)(4) of the 1975 Amendments to the Education of the Handicapped Act (Pub. L. 94–142) (now located at 20 U.S.C. 1401 (16) and (17)), that are otherwise available to the individual through a local educational agency; and
- Vocational rehabilitation services that are otherwise available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

2. Permitting hospital level of care for certain recipients.

Section 9502(b) of Pub. L. 99–272 amended section 1915(c)(1) and (c)(2)(C) of the Act. These amendments allow States to provide home and community-based services to individuals who are dependent on a ventilator and who, but for the provision of home and community-based services, would continue to receive inpatient hospital, SNF, ICF, or ICF/MR services under the State's Medicaid plan. Thus, this section of the Act authorized waiver payments for individuals who are at an inpatient hospital level of care if they enter the waiver program directly from a hospital and are ventilator-dependent. Prior to this legislation, only persons requiring an ICF, ICF/MR, or SNF level of care were covered. (As discussed below, this provision was subsequently rescinded by section 9411(a)(1) of Pub. L. 99–509 and replaced with a broader authority to permit States to extend home and community-based services to individuals requiring hospital level of care.)

3. Prohibiting imposition of certain regulatory limits.

Section 9502(c) of Pub. L. 99–272 amended section 1915(c)(2)(D) of the Act and added a new section 1915(c)(6). The amendment emphasized that the cost-neutrality test for a home and community-based services waiver is 100 percent or less of the cost of services without the waiver. This new section also abolished the expenditure limitation on Federal financial participation (FFP) in waiver expenditures as originally specified in § 441.302(e)(2) and § 441.310(a)(2) of the Medicaid regulations.

4. Computation of expenditures for certain disabled patients.

Section 9502(d) of Pub. L. 99–272 added a new section 1915(c)(7) to the Act. This provision allows States that have or wish to establish a separate waiver program for institutionalized, physically disabled individuals, who are directly discharged from SNFs, ICFs, or ICFs/MR, into the waiver program, to determine the average per capita Medicaid expenditure for such physically disabled individuals differently than in other types of waiver requests. The determination may be made separately from the expenditures for all other individuals in SNFs, ICFs, and ICFs/MR, to meet the required test for waiver cost-effectiveness. As discussed below, this authority was rescinded by section 9411(a)(3) of Pub. L. 99–509 and replaced with a broader authority to include specific cost comparisons in waivers directed at persons with any specific illness or condition who are presently inpatients of hospitals, SNFs, ICFs, or ICFs/MR.)

5. Permitting flexibility in establishing maintenance income standards.

Section 9502(e) of Pub. L. 99–272 and section 9435(a) of Pub. L. 99–509 amended section 1915(c)(3) of the Act. These amendments provide that a State may allow, in its waiver, a higher income limit for an individual's maintenance needs than the maximum amount that can be disregarded under the regulations in effect on July 1, 1985.

6. Waiver extensions.

Section 9502(f) of Pub. L. 99–272 provides that the Secretary shall, upon a State's request, extend any home and community-based services waiver that expired on or after September 30, 1985 and before September 30, 1986, subject to the State's meeting all requirements for the waiver. The extension granted must be for a period of not less than one year nor more than five years.

7. Waiver renewals.

Section 9502(g) of Pub. L. 99–272 amended section 1915(c)(3) of the Act. This amendment, effective for waiver renewals approved on or after September 30, 1986, revised the periods of time for which a waiver may be renewed from additional three-year periods to additional five-year periods.

8. Coordinated services between maternal and child health programs and home and community-based services programs.

Section 9502(h) of Pub. L. 99–272 added a new section 1915(c)(8) to the Act. This addition allows the State agency that administers the Medicaid plan to make cooperative arrangements, whenever appropriate, with the State agency responsible for administering the program for children with special health care needs under the Maternal and Child Health Program (Title V of the Act).

9. Substitution of participants.

Section 9502(i) of Pub. L. 99–272 added a new section 1915(c)(9) to the Act. This addition provides that when a waiver contains a limit on the number of individuals who can receive home and community-based services, the State may substitute additional individuals to replace any recipients who die or become ineligible for further services under the State plan.

B. Omnibus Budget Reconciliation Act of 1986

In addition to making various revisions to the home and community-based services provisions in section 1915(c) of the Act, Pub. L. 99–509 also provided for a new optional respiratory therapy care benefit under the Medicaid State plan by amending sections 1902(a)(10), 1902(e), 1902(j) and 1905(a) of the Act. The pertinent statutory changes are as follows:

1. Permitting States to Offer Home and Community-Based Services to Certain Low-Income Individuals.

Section 9411(a)(1) of Pub. L. 99–509 amended section 1915(c)(1) of the Act. This amendment authorizes States to provide home and community-based services to individuals who, but for the provision of such services, would require the level of care provided in a hospital. As we stated above, section 9502(b) of Pub. L. 99–272 had authorized payments for home and community-based services for individuals dependent on ventilator support and who were inpatients of a hospital prior to receiving home and community-based services. This more limited authority is no longer applicable. Prior to the enactment of Pub. L. 99–272, there was no explicit statutory authority to approve home and community-based services for individuals who otherwise required a hospital level of care.

Section 9411(a)(2) of Pub. L. 99–509 amended section 1915(c)(2)(B) of the Act to require the State to provide, for an individual, an evaluation of the need for inpatient hospital services prior to permitting the provision of home and community-based services as an alternative to the level of care provided in a hospital.

Section 9411(a)(3) of Pub. L. 99–509 amended section 1915(c)(7) of the Act to allow States the option of using an alternative method for estimating costs under section 1915(c)(2)(D) of the Act. For waivers that apply to individuals with a particular illness or condition, who are inpatients in hospitals, SNFs, ICFs, or ICFs/MR, the State may determine the average per capita expenditure that would have been made in a fiscal year for these individuals under the State plan separately from the expenditures for other individuals who are inpatients of the respective facilities. Alternatively, States may continue to use the usual method of estimating average per capita expenditures, that is, include the utilization and cost of all Medicaid recipients. Section 9502(d) of Pub. L. 99–272 authorized such separate estimates but only for physically disabled recipients who were directly discharged from SNFs, ICFs, or ICFs/MR into the waiver program.

Section 9411(c) of Pub. L. 99–509 amended section 1915(c)(3) of the Act to clarify that the Medicaid State plan requirement, which may be waived under section 1915(c), is limited to "comparability" of covered services, that is, that covered services be equal in amount, duration and scope for certain Medicaid recipients. Previously, all of section 1902(a)(10) of the Act could be waived by the Secretary if requested by States, but no, only section 1902(a)(10)(B) may be waived. By specifically indicating section 1902(a)(10)(B) of the Act, Congress narrowed the scope of this particular waiver option. Specifically, section 1902(a)(10)(B) of the Act requires that the medical assistance made available to any categorically eligible individual may not be less in amount, duration or scope that the medical assistance made available to any other categorically needy individual and may not be less in amount, duration or scope than the medical assistance made available to other individuals (medically needy). Regulations implementing section 1902(a)(10)(B) are located at § 440.240.

Section 9411(d) of Pub. L. 99–509 amended section 1915(c)(4)(B) of the Act by adding day treatment or other partial hospitalization services, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness, to the list of services specifically enumerated as home and community-based services in 1915(c)(4)(B) of the Act. Therefore, effective October 21, 1986 (the date of enactment of Pub. L. 99–509), States may request that any of the above services be provided under a waiver for persons diagnosed as chronically mentally ill.

2. Respiratory therapy care services.

Section 9408(a) of Pub. L. 99–509 amends section 1902(e) of the Act to provide that, at the option of the State, its State Medicaid plan may be amended to include respiratory care services as medical assistance for an individual who: (1) Is medically dependent on a ventilator for life support at least six hours per day; (2) has been dependent on ventilator support for at least 30 consecutive days as an inpatient (or the maximum number of days of inpatient care authorized under the State plan, if less than 30 days); (3) but for the availability of respiratory care services, would require respiratory care as an inpatient in a hospital, SNF, ICF, or ICF/MR, and would be eligible to have payment made for inpatient care under the State plan; (4) has adequate social support services to be cared for at home; and (5) wishes to be cared for at home. A continuous stay in one or more hospitals, SNFs, ICEs, or ICFs/MR would satisfy the requirement in item two above. Under this provision, respiratory care services are services provided on a part-time basis in the home of the individual by a respiratory therapist or other health care professional trained in respiratory therapy (as determined by the State). The services under this benefit may not be included within other items and services furnished to these individuals as medical assistance under the State Medicaid plan. Section 9408(c) of Pub. L. 99–509 includes respiratory care services (as defined in section 1902(e)(9)(C)) of the Act under the definition of medical assistance in section 1905(a) and makes other technical conforming amendments.

Section 9408(b) of Pub. L. 99–509 amends section 1902(a)(10) of the Act to provide that a State is not required to make respiratory care services (as defined in section 1902(e)(9) of the Act) available, or available in the same amount, duration and scope, to individuals who do not meet the criteria set forth in section 1902(e)(9)A) of the Act. However, if the State provides this benefit, it is required to make respiratory care services available in the same amount, duration, and scope to all Medicaid recipients who do meet the criteria in that section of the Act.

III. Discussion of Proposed Changes

A. Home and Community-Based Services Waivers

We are proposing the following revisions to the home and community-based services regulations in 42 CFR Parts 435, 440, and 441. We believe that these changes will make the regulations consistent with the statutory changes to section 1915(c) of the Act made by Pub. L. 99–272 and Pub. L. 99–509. Certain changes not specifically related to the statutory amendment are also being made.

1. Prevocational, educational, and supported employment services and respite care services.

We are proposing to revise §§ 440.180, 441.302 and 441.303 to provide for inclusion of prevocational, educational, and supported employment services under a home and community-based waiver, as specified in section 1915(c)(5) of the Act. This section of the Act, as added by section 9502(a) of Pub. L. 99–272, defines these services as qualifying "habilitation services" and indicates that Congress intends to allow States to claim FFP under limited circumstances when they provide certain deinstitutionalized individuals with these services under a waiver. The regulations implement the provision by providing in § 440.180 that these services consist of services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization and adaptive skills necessary to reside successfully in the home or in community-based settings. The regulations also stipulate that certain services for which FFP has not previously been available may now be included amoung these services.

The statutory language of section 9502(a) of Pub. L. 99–272 describes the services included in "habilitation services". That section, by reference to the Federal educational and vocational training statutes (cited above in section II.A. of this preamble) under which those services are most often provided to individuals, describes the services that may not be included under the waiver if available under other authorities. As discussed below, we believe the basic intent of Congress was to assure that there be Medicaid funding in those instances where the programs offered under other programs do not actually reach individuals who are receiving services under Medicaid waivers. Specifically, Medicaid funding is limited to cases in which the services

described in these educational and vocational training statutes are not available to deinstitutionalized individuals.

We would note that proper implementation of these educational and vocational training programs under Federal and State law and regulations would virtually assure that eligible individuals under age 22 will have the services funded. Thus, we would expect that the additional coverage provided by this provision (that is, section 9502(a) of Pub. L. 99–272) would primarily be applicable to individuals over age 22.

For purposes of section 1915(c) of the Act (as amended by section 9502(a) of Pub. L. 99–272), deinstitutionalized means an individual who has been discharged on or after April 7, 1986 from a Medicaid certified hospital, SNF, ICF or ICF/MR directly into a waiver program, which is authorized under section 1915(c) of the Act or who has been deinstitutionalized into such a program after October 1, 1981 and who has been receiving the expanded form of habilitation services since discharge. Prior to enactment of Pub. L. 99–272, FFP was not available to a State for providing prevocational and educational services. Because existing waivers that dealt with the mentally retarded or developmentally disabled were approved without inclusion of such services, we would now require either a new waiver request or an amendment to an existing waiver from any State that wishes to include prevocational, educational, or supported employment services or a combination of these services under its definition of "habilitation services". FFP is not available for prevocational, educational, and supported employment services provided prior to April 7, 1986, the effective date of section 9502(a) of Pub. L. 99–272, nor is it available on behalf of recipients deinstitutionalized before that date unless the recipients were deinstitutionalized directly into a home and community based waiver after October 1, 1981 and have received prevocational, educational, or supported employment services since discharge.

Thus, although payment is not available for the expanded forms of habilitation services until on or after April 7, 1986, we believe the requirement that individuals must be deinstitutionalized to receive these or waiver services may be interpreted to extend to periods before April 7, 1986 for individuals who needed and received such services upon discharge but did not claim FFP for the services.

In determining whether services are prevocational or vocational in nature, the issue to be considered will be whether the services being provided are directly related to preparing the individual for paid or unpaid employment (vocational) or are instead provided to increase the overall level of functioning of the individual (prevocational). Examples of prevocational services include teaching an individual such concepts as compliance with instructions, attendance requirements, task completion, problem solving, and safety. For deinstitutionalized individuals, these prevocational services would be eligible for inclusion under a State's definition of habilitation services when provided pursuant to the plan of care, unless included under another program funded under State of Federal law.

For purposes of these regulations, the term "education services" means special education and related services as defined in section 4(a)(4) of the 1975 Amendments to the Education of the Handicapped Act (Pub. L. 94–142) (now located at 20 U.S.C. 1401(16) and (17)).

Under Pub. L. 94–142, the term "special education" generally means specially designed instruction, at no cost to parents or guardian, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions. Related services will consist of transportation and such developmental, corrective, and other supportive services as may be required to assist a handicapped child to benefit from special education.

Under Pub. L. 98–527, the term "supported employment" is generally defined as paid employment that is—

- Designed for persons with developmental disabilities for whom competitive employment at or above the minimum wage is unlikely and who, because of their disabilities, need intensive ongoing support to perform in a work setting;
- Conducted in a variety of settings, particularly worksites in which persons without disabilities are employed; and
- Supported by any activity needed to sustain paid work by persons with disabilities, including supervision, training, and transportation.

Prevocational, educational, and supported employment services may now be included in the definition of "habilitation services" if the services are—

- Not funded under another State or Federal program;
- Provided pursuant to the individual's plan of care; and
- Requested by the State in the waiver request, and the request is approved by HCFA.

The language of section 1915(c)(5)(C) of the Act clearly reflects congressional intent that duplication of Federal expenditures must be avoided. The law specifies that States may not cover prevocational, educational, and supported employment services under a home and community-based services waiver, if these services *otherwise are available* to an individual through (1) a local educational agency (as services under the Education of the Handicapped Act), or (2) a program funded under section 110 of the Rehabilitation Act of 1973. The House Energy and Commerce Committee Report on Pub. L. 99–272 (H.R. Rep. No. 265, 99th Cong., 1st Sess. 60 (1985)) provides that the phrase "otherwise are available" should be interpreted in such a manner that coverage would be denied under a waiver only if (1) an individual has been determined eligible for the special educational or vocational rehabilitation services offered by other agencies, and (2) the individual is actually receiving, or will actually receive, the services under those other programs. Thus, we believe that States wishing to provide services under the expanded definition of "habilitation" services must ascertain that these services are not otherwise available and explain why they are not available.

In addition, for purposes of the expanded habilitation definition, incentive payments, subsidies, or unrelated vocational training expenses such as the following may not be included:

- Incentive payments made to an employer of beneficiaries to encourage or subsidize its participation in a supported employment program.
- Payments that are passed through to beneficiaries of supported employment programs.
- Payments for vocational training that is not directly related to a beneficiary's supported employment placement.

The committee report also provides that Congress expects the relevant State Medicaid, vocational rehabilitation, and local educational agencies to coordinate their efforts and, as a result, to maximize the number of individuals receiving these services under either a home and community-based services waiver or other Federally-assisted programs (H.R. Rep. No. 265, 99th Cong., 1st Sess. 60 (1985)). We note, too, that on page 59 of the report, the committee clearly states that although habilitation services may now include prevocational, educational, and supported employment services, these three types of services—

• Are limited, under a waiver, to deinstitutionalized individuals who are discharged from Medicaid certified institutions; and

• Cannot be applied to individuals who enter the waiver program from the community.

Thus, we believe that States electing the expanded definition of "habilitation services" must describe the process by which they will assure that the expanded waiver services will be provided only to the narrowly defined target population.

Apart from coverage of habilitation services, we are also proposing that a limitation be imposed on the amount of institutional respite care services provided to any individual under a waiver program. We believe that no reasonable benefit could be derived from receiving institutional respite care as a service necessary to prevent institutionalization for a period of longer than 30 days a year. Institutional respite care may be provided in facilities approved by the State such as hospitals, nursing homes, foster homes, or community residential facilities. Noninstitutional respite care is furnished in a private residence and may not include room and board included in the facilities' per diem rates. We note that this limitation is consistent with the level of utilization of respite care in typical waiver programs approved to date. A State, of course, is free to set a limit of less than 30 days, or not cover respite care at all.

A State may include both institutional and noninstitutional settings in its definition of respite care services. Since § 441.301(b)(1)(ii) specifically prohibits waiver services being provided to inpatients of hospitals, SNFs, and ICFs, we believe that respite care in institutional settings for periods longer than the 30-day limit described above should be considered institutional care, not respite care, and therefore should be excluded from payment under a waiver. Also, institutional respite care may include payment for room and board, which is precluded from payment for all other waiver services. For these reasons and because respite care is generally viewed as a short-term service to allow the primary care-giver (for example, a family member providing care at home) relief from those duties, we would revise § 440.180 to require States to include limitations of 30 days per waiver year on the amount of institutional respite care provided on behalf of each recipient. We are not proposing to place a limit on noninstitutional respite care but we would closely review all waiver applications that request noninstitutional respite care in excess of 30 days per recipient per waiver year. The State must fully document the need for more than 30 days of noninstitutional respite care because we believe that, generally, respite care should be a short-term service.

In accordance with section 1915(c)(5) of the Act, and the limitation on respite care described above, we propose to—

• Revise § 440.180 to provide for the expanded definition of habilitation services and the new limits on respite care;

• Add a new § 441.302(h) to require the necessary State assurances concerning the provision of prevocational, educational, and supported employment services under a waiver; and

• Add a new § 441.303(h) to require the supporting documentation to support the assurances required by § 441.302(h).

Our revisions to §§ 440.180, 441.302 and 441.303 pertaining to prevocational, educational, and supported employment services would be effective, as specified in section 9502(j) of Pub. L. 99–272, for services furnished on or after April 7, 1986, in a waiver modified by the State and approved by HCFA to cover these additional services. Although the changes concerning habilitation services are effective with services furnished on or after April 7, 1986, States that wish to expand their definition of "habilitation services" in an approved waiver must submit an amendment request and received HCFA's approval prior to being eligible to receive FFP for prevocational, educational, or supported employment services, or a combination of these services. The new respite care limitation would be applied on the effective date of the final rule.

2. Day treatment or other partial hospitalization services, psychosocial rehabilitation services, and clinic services.

We are proposing to revise §§ 440.180, 441.302, 441.303 and 441.310 to provide for the inclusion of day treatment or other partial hospitalization services, psychosocial rehabilitation services, and clinic services, for individuals with chronic mental illness as specified in section 1915(c)(4)(B) of the Act. We are interpreting this section of the Act, as amended by section 9411(d) of Pub. L. 99–509, to allow States to claim FFP for these services if they are specifically requested and approved by HCFA for inclusion in a home and community-based services waiver program, and provided to individuals diagnosed as chronically mentally ill.

The following discussion of partial hospitalization, psychosocials, and clinic services is presented solely for the purpose of providing suggestions regarding the definition of the new services available for the chronically mentally ill. States continue to have flexibility in defining the nature of services to be covered under the waiver programs and will be required to provide a complete definition of each service in their waiver application.

"Partial hospitalization" is a formal program of care in a hospital or other institution for perods of less than 24 hours a day, including services usually provided to outpatients. The formal program is designed to reduce or control the patient's psychiatric symptoms so as to prevent relapse or hospitalization and improve or maintain the patient's level of functioning. "Clinic services" are preventive, diagnostic, therapeutc, rehabilitative, or palliative items or services that are provided to outpatients by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients furnished by or under the direction of a physician or dentist (§ 440.60). Clinic services for the chronically mentally ill may be covered under a home and community-based waiver whether or not furnished in a facility. Thus, services may be provided by clinic staff in a recipient's home or other type of facility but may not be duplicative of other services provided in that particular setting. For example, clinic services such as therapeutic services may be provided in a residential facility as long as staff of that facility or other appropriate providers are not rendering and receiving medical reimbursement for the same services.

"Psychosocial rehabilitation services" are generally community support groups in nonmedical settings designed for social interaction.

Coverage under the Medicaid State plan is very limited for the institutionalized chronically mentally ill. Section 1905(a)(21) of the Act indicates that, except for individuals 21 and under in psychiatric hospitals (in States that have opted to include the optional benefit), medical assistance does not include payment for care or services for any individual under 65 years of age who is an inpatient in an institution for mental diseases (IMD). (Payment for individuals 65 and over is limited to those States that have opted to include that benefit in their Medicaid State plans.) In other words, inpatient hospital, SNF, and ICF services for individuals aged 65 and older in an IMD, and inpatient psychiatric hospital services for individuals under age 21, are optional Medicaid services.

Therefore, if a State has not opted to include these services under its State plan, no inpatient IMD coverage is included for Medicaid recipients in that State. Therefore, such States may not receive approval to provide home and community-based waiver services to these individuals. However, such States may be permitted to provide home and community-based waiver services if they provide a written assurance that, absent a waiver, the individual would be appropriately placed in an institutional setting, other than an IMD, that would receive Medicaid reimbursement on the beneficiary's behalf under its State plan.

In accordance with section 1915(c)(4)(B) of the Act, as amended by section 9411(d) of Pub. L. 99–509, we propose to—

- Revise § 440.180 to provide for day treatment or other partial hospitalization services, psychosocial rehabilitation services and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness.
- Add a new § 441.302(i) to require the necessary State written assurance that home and community-based services will not be provided to those individuals in need of inpatient care in an IMD the cost of which is not reimbursable under the State plan.
- Add a new § 44.303(i) to require the documentation needed to support the written assurance required by § 441.302(i).

3. Pub. L. 99–509 changes permitting hospital level of care of certain participants.

Section 9411(a) of Pub. L. 99–509 amended section 1915(c)(1) to give States the option of providing home and community-based services to individuals who, but for the receipt of these services, would require the level of care provided in a hospital. Prior to the enactment of Pub. L. 99–509, States were authorized under section 9502(b) of Pub. L. 99–272 to request waivers only for ventilator dependent individuals deinstitutionalized only from hospitals. Pub. L. 99–509 extends coverage to individuals requiring a hospital level of care without this restriction.

Accordingly, we are proposing to extend home and community-based services coverage to individuals who would otherwise need inpatient hospital, SNF, ICF, or ICF/MR care. The following regulations sections would be affected by the proposal:

- Section 441.301 (a)(3)(i) and (b)(1) (iii).
- Section 441.302 (c)(1), (c)(1)(ii), (c)(2)(i), (e), (f), and (i).
- Section 441.303 (f) (1), (2), (4), (5) and (i).

4. Prohibiting imposition of certain regulatory limits.

We are proposing to revise or delete the following sections of the regulations to clarify the statutory limitation on home and community-based services expenditures and to eliminate or modify the current additional regulatory limitation:

- Section 441.302(e)(1), (2) and (3).
- Section 441.304(d) (1) and (2).
- Section 441.310(a)(2) and (b).

Section 9502(c)(1) of Pub. L. 99–272 amended section 1915(c)(2)(D) of the Act to specify that, under a home and community-based services waiver, the average per capita expenditure estimated by the State for individuals under the waiver cannot exceed *100 percent* of the average per capita expenditure that the State reasonably estimates would have been made for such individuals without the waiver. We would make this change in § 441.302(e). (We note that we have always interpreted section 1915(c)(2)(D) of the Act in this manner and previously implemented the applicable regulations accordingly.) The cost estimate formula is located in regulations at § 441.303(f)(1).

Section 9502(c)(2) of Pub. L. 99–272 added a new section 1915(c)(6) to the Act that directs the Secretary to abolish the regulatory limitation concerning home and community-based services waiver expenditures. This expenditure limitation currently appears in §§ 441.302(e)(2) and 441.310(a)(2) and requires a State to provide satisfactory assurance that actual total expenditures for home and community-based services and the State's claim for FFP for the services will not exceed the State's approved estimates for waiver services. Under the current regulations, expenditures that exceed the State's approved estimates would not have been eligible for FFP. We previously implemented this limit because we believed it would provide States with an incentive either to contain expenditures within approved waiver estimates or to request an approval for revised expenditure estimates. We still believe that it is incumbent upon States to request an amendment of their waiver estimates when they anticipate substantially exceeding their approved estimates rather than unilaterally incurring additional Medicaid costs.

We also believe that the statutory requirement for eliminating the home and community-based services expenditure limitation in no way diminishes our responsibility to ensure that a State's cost estimates are reasonable before approving or renewing a waiver. We will continue to monitor waiver expenditures and exercise our option to terminate waivers or deny requests for renewals when unauthorized waiver service cost increases have invalidated a State's assurance of cost-effectiveness.

5. Waiver of comparability requirement.

We are proposing to revise § 441.301(a)(2) to provide that when States request a waiver of comparability requirements they are specifically limited to receiving a waiver of section 1902(a)(10)(B) of the Act.

Section 9411(c) of Pub. L. 99–509 amended section 1915(c)(3) of the Act. Prior to Pub. L. 99–509, section 1915(c)(3) stated only that home and community-based waivers may include waivers of "statewideness" (section 1902(a)(1)), and section 1902(a)(10). Congress has now provided that the only part of section 1902(a)(10) of the Act for which a State may receive a waiver under section 1915(c)(3) is section 1902(a)(10)(B). HCFA has been approving home and community based waivers with the broad section citation of section 1902(a)(10), and thus, the waiver has been applicable to amount, duration and scope of services. (Section 1902(a)(10) refers to amount, duration and scope of services.) Section 1902(a)(10)(B) deals with comparability. Therefore, only section 1902(a)(10)(B) will now be waived.

Section 1902(a)(10)(B) of the Act states that the medical assistance made available to categorically needy recipients shall not be less in amount, duration and scope than that made available to any other categorically eligible recipient and shall not be less in amount, duration and scope than that made available to other eligible Medicaid recipients. The provision becomes effective with waivers and renewals of waivers approved on or after October 21, 1986.

6. Computation of expenditure for certain disabled patients.

As discussed above, section 1915(c)(2)(D) of the Act directs us to ensure that the average per capita expenditure estimated by a State for waiver individuals does not exceed 100 percent of the average per capita expenditure that the State reasonably estimates would have been made for these individuals without the waiver. The House Energy and Commerce Committee, in reviewing the computations that States must use regarding this requirement, indicated that Congress believes the physicially disabled population must be viewed as

completely different from other categories even though the physically disabled and the other categories of individuals happen to reside in the samne SNFs or ICFs. (See H.R. Rep. No. 265, 99th Cong., 1st Sess. 60 (1985).) As an example, the committe explained that it is inappropriate to include costs relating to elderly SNF or ICF patients in a cost calculation for a waiver targeted at physically disabled young adults. Further, the committee stated that in this situation, the use of statewide averages for SNF and ICF expenditures is insppropriate when, by the waiver's own terms, it is limited to a particular county.

Forty-seven regular waivers and 19 model waivers have been approved that include the aged and disabled, and which may include the aged and disabled, and which may include the physically disabled. We have, in fact, covered this eligibility group, but not on a separate, exclusive basis. HCFA has and will continue to accept from States new proposals that deal exclusively with the deinstitutionalized physically disabled, (as well as persons with any particular illness or condition, as authorized by Pub. L. 99-509, discussed below), but approval of the new request would be on a prospective basis under § 441.304(a). Further, States may not separate this eligibility group from an existing approved waiver before receiving HCFA approval of a waiver amendment.

7. Computation of expenditures for individuals with a particular illness or condition.

We are proposing to revise, §§ 441.302(e)(3) and 441.303(f) (1), (4), and (5) to provide that in the case of waivers that apply only to individuals with a particular illness or condition, who are inpatients in hospitals, SNFs, ICFs, or ICFs/Mr, the State may determine the average per capita expenditure that would have been made in each waiver year for those individuals under the State plan separately from the expenditures for other inpatients of the respective certified facilities.

Section 9411(a)(3) of Pub. L. 99-509 amends 1915(c)(7) of the Act and permits States the option of determining average per capita cost expenditure estimates for waivers that are directed to individuals with specific illnesses or conditions (who are inpatients in hospitals, SNFs, ICFs, or ICFs/MR) on a different basis than is usual. States may estimate expenditures based on the costs of these particular individuals regardless of the costs of other inpatients in the respective certified facilities.

On pages 400-403 of the Conference Report of Pub. L. 99-509 (H.R. Rep. No. 99-1012, 99th Cong., 2d Sess. 400 (1986)), Congress indicated its intention that "illness" (or diagnosis) meant, for example, acquired immune deficiency syndrome (AIDS) or AIDS-related condition (ARC), and that "condition" meant, for example, chronic mental illness, ventilator dependency, etc. Thus, for waivers directed to any such specified group, States may now make expenditure estimates specific to that group of patients who are inpatients of hospitals, SNFs, ICFs, or ICFs/MR, distinguished by illness or condition. This provision applies to current inpatients of Medicaid certified facilities and is effective for new waivers and renewals of waivers approved on or after October 21, 1986.

As with all home and community-based waivers, States must furnish reasonable and verifiable statewide cost estimates for waivers dealing with individuals with a specific illness or condition. Approval of any such waiver requests will be on a prospective basis as indicated in § 441.304(a).

8. Permitting flexibility in establishing maintenance income standards.

We are proposing to revise §§ 435.726 and 435.735 to provide that, under a home and community-based services waiver, a State may allow individuals a higher post-eligibility income limit for maintenance needs than the amount that can be disregarded under these sections as of July 1, 1985. Currently, § 435.726 limits the post-eligibility amount for an individual's maintenance needs to the highest of (1) the Supplemental Security Income (SSI) standard under Title XVI of the Act, (2) the optional State supplement standard, or (3) the medically needy income standard (§§ 436.811-436.814). A parallel rule at § 435.735 applies in States that apply more restrictive requirements for Medicaid eligibility than SSI.

If a State chooses to exercise this option, it would have to establish a maximum deduction amount which would not be exceeded for any individual covered by the waiver. These changes would be consistent with section 1915(c)(3) of the Act, as amended by section 9502(e) of Pub. L. 99-272 and section 9435(a) of Pub. L. 99-509.

In its report (H.R. Rep. No. 265, 99th Cong., 1st Sess. 61 (1985)), the House Energy and Commerce Committee voiced congressional concern that the lack of adequate income to maintain oneself at home may prevent the participation of appropriate individuals in home and community-based services waiver programs. The committee further explained that there appears to be no good reason for the imposition of arbitrary post-eligibility income limits considering the budget neutrality requirements for home and community-based services waivers. The committee reasoned that the more money a State allows an individual to keep for maintenance needs, the less patient income there will be available to reduce Medicaid expenditures, and the higher the Medicaid average per capita cost. In effect, the State faces a direct trade-off between Medicaid expenditures and income contributed by the patient. The committee pointed out that if costs rise to the point where the State could no longer demonstrate budget neutrality, we would, of course, deny or terminate the waiver as appropriate.

These proposed changes would apply to waivers and waiver renewals approved before, on, or after April 7, 1986, as specified in section 9502(j) of Pub. L. 99-272.

9. Waiver extensions.

We are proposing to revise § 441.304(a) to change waiver extension periods, as specified by sections 9502 (f) and (g) of Pub. L. 99-272. The former revision became effective upon enactment of the statute while the latter revision became effective on September 30, 1986, as specified by section 9502(j) of Pub. L. 99-272.

Section 9502(f) provides that a State may request an extension of any home and community-based services waiver that expires on or after September 30, 1985 and before September 30, 1986. The State must receive an extension of from one to five years at the discretion of the Secretary for each waiver that expires during that time period. Approval would be subject only to our determination that the requirements of the waiver are being met (section 1915(e)(1) of the Act). Section 9502(g) of Pub. L. 99-272 amends section 1915(c)(3) of the Act and provides that approval of waiver renewals on or after September 30, 1986 will be for five-year periods. Section 1915(c)(3) of the Act previously provided for extensions for three-year periods, as is currently provided in § 441.304(a) of the regulations. We are proposing changes to § 441.304(a) to reflect the new statutory requirement.

10. Coordinated services between maternal and child health programs and home and community-based services programs.

We are proposing to add a new § 441.306 (and redesignate the current § 441.306 as §441.308) to provide that, whenever appropriate, cooperative arrangements may be made between the State agency administering a Maternal

and Child Health program (Title V of the Act) and the agency administering the Medicaid home and community-based services waiver. These waivers include children with special health care needs. This change would be effective as of April 7, 1986, as specified in section 9502(j) of Pub. L. 99–272. These cooperative arrangements would facilitate the provision of home and community-based services and other necessary services to children (individuals under 18 years old). This change would be consistent with section 9502(h) of Pub. L. 99–272, which added new section 1915(c)(8) to the Act.

11. Substitution of participants.

We are proposing to add a new § 441.305 (and redesignate the current § 441.305 as § 441.307), and add § 441.303(b) to provide that a State may substitute additional individuals to replace those under a home and community-based services waiver who die or become ineligible for waiver services, when the waiver contains a Federally imposed limit on the number of individuals receiving waiver services. This change would be effective Apri 7, 1986, as specified in section 9502(j) of Pub. L. 99–272.

In its report (S. Rep. No. 146, 99th Cong., 1st Sess. 321 (1985)), the Senate Finance Committee indicated concern that a State's estimate of utilization of services would be based on unduplicated recipient counts. The committee believed that the use of unduplicated counts prohibited a State from replacing, under an approved waiver, individuals who die or become ineligible with new eligible individuals during the same year. As a remedy, Congress enacted section 9502(i) of Pub. L. 99–272, which added a new section 1915(c)(9) to the Act.

We believe that the use of unduplicated recipient counts in regular waiver programs permits States to fill vacancies with qualified individuals during the same year in which the vacancies occur. However, because Congress indicated concern that unduplicated recipient counts do not allow States the opportunity to replace recipients who die or who lose eligibility for State plan services, we are adding a new paragraph (f)(6) to § 441.303 that would require that States indicate the number of unduplicated recipients included in its estimates who are expected to be replaced due to death or loss of eligibility for State plan services during each year of the waiver. The replacements for these individuals would be included in the State's estimate of the total number of unduplicated recipients who would receive waiver services in each year of the waiver.

The model waiver program (50 FR 10021, March 13, 1985), which was designed to assist States in receiving expedited review through a preprint process, has been operating differently from regular waiver programs. We have been limiting the number of individuals covered under the model waiver to the number specifically requested by the State, up to the maximum allowable number of 50 unduplicated individuals per year. We have not been allowing States to fill subsequent vacancies during the same year that these vacancies occur. However, after the year in which a vacancy occurs has ended, we have allowed States to replace recipients up to the maximum number requested, or up to 50 recipients.

Our proposed new § 441.305 would remove the model waiver restriction. However, we would continue to require that at no time during the term of the model waiver may the number of recipients receiving waiver services exceed the specified number approved in the model waiver, or 50 recipients, the maximum allowed in this program. States would be permitted to replace recipients who leave the program due to death or loss of eligibility for services under the State plan. We emphasize that unlike the model waiver program no such general Federal restriction exists for regular home and community-based services waivers because all waiver estimates already account for client turnover in their required cost and utilization estimates. States are expected to stay within their estimates and should request HCFA approval of an amendment of their waiver estimates when they exceed those approved, whether this is due to high turnover or other factors.

12. Expansion of "Contents of Request For a Waiver".

We would expand § 441.301(b)(4) to indicate that States, in defining waiver services, must reasonably relate the described waiver services to commonly accepted definitions of the terms used and avoid open ended definitional statements such as "a service includes but is not limited to * * *." We would require that each specific service be separately defined and that multiple services that are commonly considered separate services not be packaged as a single comprehensive service (for example, personal care services and habilitation services could not be combined as "habilitation").

13. Expansion of "Supporting Documentation Required".

We would amend § 441.303(c) to require States that propose the use of a level of care evaluation form other than that used for nursing home placement—

- To submit a copy of the form; and
- If the form differs from that used for nursing home placement—

—To explain how and why the form differs; and

—To provide an assurance that the alternative form is fully comparable to that used for placement in nursing homes.

B. Respiratory care services.

To implement section 9408 of Pub. L. 99–509, we would add new §§ 440.185 and 440.250(n). Section 440.185, titled "Respiratory Therapy for Ventilator-Dependent Individuals", has been added to the list of services included in the term "medical assistance". This adds such services to those that a State may elect to cover under its approved Medicaid State plan. It also includes the specific conditions of coverage that were enumerated by the statute. These conditions are as follows:

1. Services must be provided in the patient's home;

2. The services are not otherwise available to the client under the Medicaid State plan;

3. The services are provided on a part-time basis by a respiratory therapist or other health care professional trained in respiratory therapy as determined by the State;

4. The recipient is medically dependent on a ventilator for life support at least six hours a day;

5. The recipient has been so dependent for at least 30 consecutive days (or the maximum number of days authorized under the State plan, whichever is less) as an inpatient in one or more hospitals, SNFs, ICFs, or ICFs/MR;

6. But for the availability of respiratory care services, the recipient would require respiratory care as an inpatient in a hospital, SNF, ICF, or ICF/MR, and would be eligible to have payment made for that inpatient care under the State plan;

7. The recipient has adequate social support services to be covered at home; and

8. The recipient wishes to be cared for at home.

Because of the specificity of the statute, we have elected not to elaborate further on these criteria but would welcome public comment with regard to areas that may require clarification or expansion.

We would also add a new § 440.259(o) to the list of limitations to the

comparability of service requirement. Following the statutory language, we would indicate that respiratory care services for ventilator-dependent individuals are exempt from the general comparability requirement that services be provided in equal amount, duration and scope to any eligible group under the State plan. We have, however, required that comparability requirements be observed with regard to these services among those Medicaid eligible persons in the State satisfying the explicit conditions of coverage for these services.

IV. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish an initial regulatory impact analysis for any proposed regulations that are likely to meet criteria for a "major rule." A major rule is one that would 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 government agencies, or any 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.

Under section 1915(c)(2)(D) of the Act, the estimated average per capita expenditure under a home and community-based waiver may not exceed 100 percent of the estimated average per capita expenditure that the State reasonably estimates would have been made if the waiver had not been granted. All States have assured HCFA of this as a condition of waiver approval. Thus, under the law, this proposed rule is expected to be techincally budget netural. However, section 9502 of Pub. L. 99–272 and sections 9408 and 9411 of Pub. L. 99–509 have negligible costs associated with them overall. Although we do not expect aggregate Medicaid expenditures to increase, the percentage of long term care patients served in waivers is growing and now constitutes approximately three percent of the aged/disabled Medicaid population and 23 percent of the mentally retarded/developmentally disabled Medicaid population. It is difficult to determine and may be impossible to assess precisely whether these proposed changes would substantially affect the rate of growth in Medicaid expenditures.

We do not expect that adoption of this proposed rule would result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies in any geographic regions. This regulation would be beneficial in that waivers encourage competition, which provides alternative means for receiving services. Employment in institutional care is more capital intensive; home and community services are more labor intensive. Thus, although there may be adverse impact on institutional providers, it probably will be offset by increased business for providers who offer home and community-based services.

We expect a favorable impact because new programs may be added as alternatives to institutionalization as a result of this regulation. Costs or losses of revenue may be experienced by providers (both their owners and employees) that formerly served institutionalized recipients. However, although an institutional provider of services may be adversely effected by the existence of a waiver in its area, it may then choose to provide services covered under a home and community-based waiver and may thus not be adversely effected.

In conclusion, waivers generally may result in services being furnished in different settings, often by different providers, with possibly some losses in revenue by some providers offset by increases to other providers. We do not consider this redistributive effect to be significant. We do expect to benefit from a deinstitutionalized life and from the services that may be provided under the waiver.

For these reasons, we have determined that these proposed regulations do not meet the criteria for a major rule under E.O. 12291.

B. Regulatory Flexibility Act

For proposed regulations we prepare and publish an initial regulatory flexibility analysis consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), unless the Secretary certifies that the regulations would not have a significant impact on a substantial number of small entities. For purposes of the RFA, we consider all providers to be small entities. Thus, both those providers that deinstitutionalize patients into the home or community and the home and community-based providers of services that receive such patients/recipients are small entities. This proposed rule would also affect States and Medicaid recipients, but they are not considered small entities under the RFA.

Any impact upon providers would be the result of individual State decisions as developed in waiver requests. Due to the positive reception of the home and community-based waiver program, we believe that this regulation will be well-received by those concerned with such programs. This regulation would generally benefit States and providers. It offers broader service coverage than current reules and may result in new waiver applications and expansion of existing waivers. Thus, there may be more funds flowing through waivers. As discussed earlier, because of the appeal of the program to States, the proportion of Medicaid expenditures flowing through home and community-based waivers is growing. This regulation may contribute to that growth, but we cannot predict how much. It is unlikely that we would be able to isolate the effects of these proposals from other factors affecting the growth of waivers.

The broader coverage made possible under this proposal is one factor that offers opportunity for further growth. Waivers also would be approved for longer periods, which may increase the aggregate magnitude of granted waivers.

Notwithstanding State assurances to the contrary, it should be noted that implementation of these proposals could possibly result in increasing overall program expenditures. This could result if services furnished under the waivers are in addition to, rather than substitutes for, institutional and other services that would otherwise have been provided. Since this is clearly not contemplated under the statute, we will be carefully reviewing the operation of waivers to assess the extent to which this may occur.

If this regulation resulted in a substantial increase in the growth of waivers, it could affect small entities. Most entities would benefit, contingent upon States' decisions that cannot be predicted. Although these changes would generally tend to ease approval of an increased volume of waivers, we do not expect the regulation in itself to increase waivers to the extent that a demonstrable significant economic impact would result. we have therefore determined, and the Secretary certifies, that these proposed regulations would not have a significant economic impact on a substantial number of entities.

Also, section 1102(b) of the Social Security Act requires the Secretary to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer

than 50 beds located outside a metropolitan statistical area. We have determined, and the Secretary certifies, that this proposed regulation would not have a significant impact on the operations of s a substantial number of small rural hospitals.

V. Other Required Information

A. Recordkeeping and Reporting Requirements

Sections 440.180, 441,301 and 441,303 of the proposed rule contain inforamtion collection requirements that are subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official whose name appears in the preamble and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, DC 20503, Attention: Desk Officer for HCFA."

B. Responses to Public Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, in developing the final rule, we will consider all comments that we receive by the date and time specified in the "Dates" section of this preamble, and we will respond to the comments in the preamble of that rule.

List of Subjects

42 CFR Part 435

Aid to Families with Dependent Children, Grant programs—health, Medicaid, Supplemental Security Income (SSI).

42 CFR Part 440

Grant programs—health, Medicaid.

42 CFR Part 441

Family planning, Grant programs—health, Infants and children, Medicaid, Penalties, Prescription drugs, Reporting and recordkeeping requirements.

We are proposing to amend 42 CFR Chapter IV, Subchapter C, as set forth below:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES SUBCHAPTER C—MEDICAL ASSISTANCE PROGRAMS

A. Part 435 is amended as follows:

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA AND THE NORTHERN MARIANA ISLANDS

1. The authority citation for Part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 435.726, the introductory language of paragraph (c) is republished; and paragraph (c)(1) is revised to read as follows:

§ 435.726 Post-eligibility treatment of income and resources of individuals receiving home and community-based services furnished under a waiver: Application of patient income to the cost of care.

* * * * *

(c) In reducing its payment for home and community-based services, the agency must deduct the following amounts, in the following order, from the individual's total income (including amounts disregarded in determining eligibility):

(1) An amount for the maintenance needs of the individual that the State may set at any level, as long as the following conditions are met:

(i) The deduction amount is based on a reasonable assessment of need.

(ii) The State establishes a maximum deduction amount that will not be exceeded for any individual under the waiver.

* * * * *

3. In § 435.735, the introductory language of paragraph (c) is republished; and paragraph (c)(1) is revised to read as follows:

§ 435.735 Post-eligibility treatment of income and resources of individuals receiving home and community-based services furnished under a waiver: Application of patient income to the cost of care.

* * * * *

(c) In reducing its payment for home and community-based services, the agency must deduct the following amounts, in the following order, from the individual's total income (including amounts disregarded in determining eligibility):

(1) An amount for the maintenance needs of the individual that the State may set at any level, as long as the following conditions are met:

(i) The deduction amount is based on a reasonable assessment of need.

(ii) The State establishes a maximum deduction amount that will not be exceeded for any individual under the waiver.

* * * * *

B. Part 440 is amended as follows:

PART 440—SERVICES: GENERAL PROVISIONS

1. The authority citation for Part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The table of contents for Part 440, Subpart A, is amended by adding the title of new § 440.185 to read as follows:

Subpart A—Definitions

Secs.

* * * * *

440.185 Respiratory care for ventilator-dependent individuals.

3. Section 440.180 is revised to read as follows:

§ 440.180 Home or community-based services.

(a) *Description and requirements for services.* "Home or community-based services" means services, not otherwise furnished under the State's Medicaid plan, that are furnished under the provisions of Part 441, Subpart G of this chapter.

(1) These services may consist of any or all of the services listed in paragraph (b) of this section, as those services are defined by the agency and approved by HCFA.

(2) The services must meet the standards specified in § 441.302(a) of this chapter concerning health and welfare assurances.

(3) The services are subject to the limits on FFP described in § 441.310 of this chapter.

(b) *Included services.* Home or community-based services may include the following services, as they are defined by the agency and approved by HCFA:

(1) Case management.

(2) Homemaker.

(3) Home health aide.

(4) Personal care.

(5) Adult day health.

(6) Habilitation services. Beginning with services furnished on or after April 7, 1986, an agency may request HCFA's approval to include in its home or community-based services waiver habilitation services as they are described in paragraphs (c) and (d) of this section.

(7) Respite care services that, effective on [effective date of final rule], are subject to appropriate limits on utilization of care that may not exceed 30 days of institutional respite care per recipient per waiver year.

(8) Day treatment or other partial hospitalization services, psychosocial

rehabilitation services and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness.

(9) Other services requested by the agency and approved by HCFA as cost effective and necessary to avoid institutionalization.

(c) *Additional habilitation services effective April 7, 1986.*—(1) *General rule.* As of the effective date of a new waiver or amendment to an existing waiver that includes the specific additional habilitation services described in paragraph (c)(2) of this section, an agency may claim FFP under the new or amended waiver only for those services provided to—

(i) Recipients who have been discharged on or after April 7, 1986 from a Medicaid-certified SNF, ICF, or ICF/MR directly into such a waiver; or

(ii) Recipients who have been deinstitutionalized on or aftger October 1, 1981 from a Medicaid certified SNF, ICF, or ICF/MR directly into a Medicaid home and community-based services waiver program and who have received habilitation services, which include prevocational, educational, and supported employment services, since discharge.

(2) *Services included.* Among the services the agency may include as habilitation services under this paragraph are the following services:

(i) Prevocational services, which means services that are aimed at preparing an individual for paid or unpaid employment, and that are not job-task oriented but which are aimed at a generalized result. These services may include, for example, teaching an individual such concepts as compliance, attendance, task completion, problem solving and safety.

(ii) Educational services, which means special education and related services (as defined in section 4(a)(4) of the 1975 Amendments to the Education of the Handicapped Act) (Pub. L. 94–142) (20 U.S.C. 1401 (16 and 17)) to the extent they are not prohibited under paragraph (c)(3)(i) of this section.

(iii) Supported employment services, which facilitate paid employment, that are—

(A) Provided to persons with developmental disabilities for whom competitive employment at or above the minimum wage is unlikely and who, because of their disabilities, need intensive ongoing support to perform in a work setting;

(B) Conducted in a variety of settings, particularly worksites in which persons without disabilities are employed; and

(C) Defined as any combination of special supervisory services, training, transportation, and adaptive equipment that the State demonstrates are essential for developmentally disabled persons to engage in paid employment and that are not normally required for nondisabled persons engaged in competitive employment.

(3) *Services not included.* For purposes of this paragraph (c), the following services may not be included in habilitation services:

(i) Special education and related services (as defined in section 4(a)(4) of the 1975 Amendments to the Education of the Handicapped Act) (Pub. L. 94–142) (20 U.S.C. 1401 (16 and 17)) that are otherwise available to the individual through a State or local educational agency.

(ii) Vocational rehabilitation services that are otherwise available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (Pub. L. 93–112) (29 U.S.C. 730).

(d) *Additional services for the chronically mentally ill*—(1) *Services included.* FFP is available for services indicated in paragraph (b)(8) of this section when provided to individuals who have been diagnosed as being chronically mentally ill. Such services must have been requested by the agency as part of either a new waiver request or a renewal and approved by HCFA on or after October 21, 1986.

(2) *Services not included.* For purposes of this paragraph, any home and community-based service, including those indicated in paragraph (b)(8) of this section, may not be included in home and community-based service waivers for the following individuals diagnosed as chronically mentally ill:

(i) For individuals aged 22 through 64 who, absent the waiver, would require inpatient care in an institution for mental diseases (see § 435.1009 of this chapter).

(ii) For individuals, regardless of age, who, absent the waiver, would require inpatient care in an institution for mental diseases in those States that have not opted to include the benefits defined in §§ 440.140 or 440.160.

4. Section 440.185 is added to read as follows:

§ 440.185 Respiratory care for ventilator-dependent individuals.

"Respiratory care for ventilator-dependent individuals" means services that are not otherwise available under the State's medicaid plan, provided on a part-time basis in the recipient's home by a respiratory therapist or other health care professional trained in respiratory therapy (as determined by the State) to an individual who—

(a) Is medically dependent on a ventilator for life support at least six hours per day;

(b) Has been so dependent for at least 30 consecutive days (or the maximum number of days authorized under the State plan, whichever is less) as an inpatient in one or more hospitals, SNFs, ICFs, and ICFs/Mr;

(c) But for the availability of respiratory care services, would require respiratory care as an inpatient in a hospital, SNF, ICF, or ICF/MR and would be eligible to have payment made for inpatient care under the State plan;

(d) Has adequate social support services to be cared for at home; and

(e) Wishes to be cared for at home.

5. In § 440.250, new paragraphs (m) and (n) are reserved, and a new paragraph (o) is added to read as follows:

§ 440.250 Limits on comparability of services

* * * * *

(m) [Reserved]

(n) [Reserved]

(o) If the agency makes respiratory care services available under § 440.185, the services need not be made available in the same amount, duration, and scope to any individual not satisfying the conditions for coverage under that section. However, the services must be made available in the same amount, duration, and scope to all individuals satisfying the conditions of coverage under that section.

C. Part 441 is amended as follows:

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

1. The authority citation for Part 441 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The table of contents for Part 441, Subpart G is amended by redesignating §§ 441.305 and 441.306 as § 441.307 and § 441.308, respectively, and by adding new § 441.305 and § 441.306 to read as follows:

Subpart G—Home and Community-Based Services: Wavier Requirements

Secs.

* * * * *

441.305 Replacement of recipients in approved waiver programs.

441.306 Cooperative arrangements with the Maternal and Child Health program.

* * * * *

3. In § 441.301, paragraph (a) is revised; the introductory language of paragraph (b) is revised; the

introductory language of paragraph (b)(1) is republished; paragraph (b)(1)(ii) is revised; a new paragraph (b)(1)(iii) is added; and paragraph (b)(4) is revised to read as follows:

§ 441.301 Contents of request for a waiver.

(a) A request for a waiver under this section must consist of the following:

(1) The assurances required by § 441.302 and the supporting documentation required by § 441.303.

(2) When applicable, requests for waivers of the requirements of section 1902(a)(1) or (10)(B) of the Act, which concern statewide application of Medicaid and comparability of services.

(3) A statement explaining whether the agency will refuse to offer home or community-based services to any recipient if the agency can reasonably expect that the cost of the services would exceed the cost of an equivalent level of care provided in—

(i) A hospital (as defined in § 440.10 of this chapter);

(ii) An SNF (as defined in § 440.40 of this chapter); or

(iii) An ICF or ICF/MR (as defined in § 440.150 of this chapter) if applicable.

(b) If the agency furnishes home and community-based services, as defined in § 440.180 of this chapter under a waiver granted under this subpart, the waiver request must—

(1) Provide that the services are furnished—

* * * * *

(ii) Only to recipients who are not inpatients of a hospital, SNF, ICF or ICF/MR; and

(iii) Only to recipients who the agency determines would, in the absence of these services, require the Medicaid covered level of care provided in—

(A) A hospital (as defined in § 440.10 of this chapter);

(B) An SNF (as defined in § 440.40 of this chapter); or

(C) An ICF (as defined in § 440.150 of this chapter);

* * * * *

(4) Describe the services to be furnished so that each service is separately defined. Multiple services that are generally considered to be separate services may not be consolidated under a single definition. Commonly accepted terms must be used to describe the service and definitions may not be open ended in scope.

* * * * *

4. In § 441.302, the introductory paragraph is revised; paragraphs (c) and (e) are revised; paragraph (f) is redesignated as paragraph (g) and republished; and new paragraphs (f), (h), and (i) are added to read as follows:

441.302 State assurances.

Unless the Medicaid agency provides the following satisfactory assurances to HCFA, HCFA will not grant a waiver under this subpart and may terminate a waiver already granted.

* * * * *

(c) *Evaluation of need.* Assurance that the agency will provide for the following:

(1) *Initial evaluation.* An evaluation of the need for the level of care provided in a hospital, SNF, or ICF (as defined in § 440.10, 440.40, and 440.150 of this chapter, respectively) when there is a reasonable indication that a recipient might need the services in the near future (that is, a month or less) unless he or she receives home or community-based services. For purposes of this section, "evaluation" means a review of an individual recipient's condition to determine—

(i) Whether he or she requires the level of care provided in a hospital, SNF, or ICF as defined by §§ 440.10, 440.40, and 440.150, respectively; and

(ii) That the individual would otherwise be institutionalized in such a facility.

(2) *Periodic reevaluations.* Reevaluations, at least annually, of each recipient receiving home or community-based services to determine whether he or she continues to need the level of care provided and would otherwise be institutionalized in one of the following institutions:

(i) A hospital.

(ii) An SNF.

(iii) An ICF.

(iv) An ICF/MR

* * * * *

(e) *Average per capita expenditures.* Assurance that the average per capita fiscal year expenditures under the waiver will not exceed 100 percent of the average per capita expenditures that would have been made in the fiscal year for the level of care provided in a hospital, SNF, or ICF, or ICF/MR under the State plan had the waivers not been granted.

(1) These expenditures must be reasonably estimated and documented by the agency.

(2) The estimate must be on an annual basis and must cover each year of the waiver period.

(3) In making estimates for a waiver that applies only to individuals with a particular illness (for example, acquired immune deficiency syndrome (AID)) or condition (for example, chronic mental illness) who are inpatients in a hospital, SNF, or ICF, the State may estimate the average per capita expenditures for such individuals without including expenditures for other individuals who are inpatients of applicable hospitals, SNFs, ICF s, or ICFs/MR.

(f) *Actual total expenditures.* Assurance that the agency's actual total expenditures for home and community-based and other Medicaid services provided to recipients under the waiver will not, in any year of the waiver period, exceed 100 percent of the amount that would be incurred by the State's Medicaid program for these individuals, absent the waiver, in—

(1) A hospital;

(2) An SNF; or

(3) An ICF; or

(4) An ICF/MR, if applicable.

(g) *Reporting.*—Assurance that annually, the agency will provide HCFA with information on the waiver's impact. That information must be consistent with a data collection plan designed by HCFA and must address the waiver's impact on—

(1) The type, amount, and cost of services provided under the State plan; and

(2) The health and welfare of recipients.

(h) *Habilitation services.* Assurance that prevocational, educational, or supported employment services, or a combination of these services, if provided as habilitation services under the waiver, are—

(1) Not otherwise available to the individual under the Education of the Handicapped Act (Pub. L. 94–142) (29 U.S.C. 1401 (16 and 17)) or as services under the Rehabilitation Act of 1973 (Pub. L. 93–112) (29 U.S.C. 730); and

(2) Furnished only to individuals who have been deinstitutionalized on or after April 7, 1986 from a Medicaid-certified SNF, ICF, or ICF/MR directly into a home and community-based services waiver program authorized and financed under section 1915(c) of the Act; or

(3) Furnished to individuals who have been deinstitutionalized on or after October 1, 1981 from a Medicaid-certified SNF, ICF, or ICF/MR directly into a home and community-based services waiver program authorized and financed under section 1915(c) of the Act, and also have received prevocational, educational, or supported employment services since discharge.

(i) *Day treatment or partial hospitalization, psychosocial rehabilitation services, and clinic services for individuals with chronic mental illness.* Assurance that FFP will not be claimed in expenditures for waiver services including, but not limited to day treatment/partial hospitalization, psychosocial rehabilitation services and clinic

services provided as home and community-based services to individuals with chronic mental illnesses if these individuals are—

(1) Age 22 to 64 and in need of impatient care in an institution for mental diseases (IMD);

(2) Age 65 and older and the State has not included the optional Medicaid benefit cited in § 440.140; or

(3) Age 21 and under and the State has not included the optional Medicaid benefit cited in § 440.160.

5. In § 441.303, the introductory language of the section is revised; the introductory language of paragraph (c) is republished; paragraph (c)(2) is revised; the introductory language and certain equation factors in paragraph (f)(1) are revised; paragraphs (f)(2) and (f)(3) are revised; paragraph (f)(4) is redesignated as paragraph (f)(5); a new paragraph (f)(4) is added; and newly redesignated paragraph (f)(5) is revised; a new paragraph (f)(6) is added; paragraph (g) is revised; and new paragraphs (h) and (i) are added to read as follows:

§ 441.303 Supporting documentation required.

The agency must furnish HCFA with sufficient information to support the assurances required by § 441.302. Except as HCFA may otherwise specify for particular waivers, the information must consist of the following:

* * * * *

(c) A description of the agency's plan for the evaluation and reevaluation of recipients, including—* * *

(2) A copy of the evaluation form to be used; and if it differs from the form used in placing recipients in nursing homes, a description of how and why it differs and an assurance that the outcome of the new evaluation form is reliable, valid, and fully comparable to the form used for nursing home placement;

* * * * *

(f) * * *

(1) The annual average per capita expenditure estimate of the cost of home and community-based and other Medicaid services under the waiver must not exceed 100 percent of the annual average per capita expenditures of the cost of services in the absence of a waiver. The estimates are to be based on the following equation:

* * * * *

A = the estimated annual number of unduplicated beneficiaries who would receive the level of care provided in a hospital, SNF, ICF, or ICF/MR with the waiver. (For waivers that apply only to individuals with a particular illness or condition who are impatients of hospitals, SNFs, ICFs, or ICFs/MR, the State is not required to use the entire patient population. The estimate may be based on only the number of such individual inpatients of the hospitals, SNFs, ICFs, or ICFs/MR who are comparable to the waiver group but not expected to be included in the waiver program.)

B = the estimated annual Medicaid expenditure for hospital, SNF, ICF, or ICF/MR care per eligible Medicaid user with the waiver.

C = the estimated annual number of unduplicated beneficiaries who would receive home and community-based services under the waiver, including model waivers.

* * * * *

F = the estimated annual number of beneficiaries who would likely receive the level of care provided in hospital, SNF, ICF, or ICF/MR in the absence of the waiver.

* * * * *

C' = the estimated annual number of beneficiaries referred to in C who would receive any of the acute care services and other noninstitutional long-term care services otherwise provided under the State plan.

D' = the estimated annual Medicaid expenditure per eligible Medicaid user of the acute care and other noninstitutional long-term care services referred to in C'.

* * * * *

(2) For purposes of the equation, acute care services means all services otherwise provided under the State plan that are neither hospital, SNF, ICF, or ICF/MR services, nor the noninstitutional, long-term care services referred to in H.

(3) Data on the estimated annual number of beneficiaries and expenditures for those who would otherwise receive a hospital, SNF, ICF, or ICF/MR level of care is required for all these types of institutions only if the waiver request provides that each of these groups will be offered home and community-based services. For example, if the request does not include persons, who would otherwise receive an ICF/MR level of care, the State is not required to furnish data on that group.

(4) In making estimates of average per capita expenditures for a waiver that applies only to individuals with a particular illness or condition who are inpatients of hospitals, SNFs, ICFs, or ICFs/MR, the agency may determine the average per capita expenditures for these individuals absent the waiver without including expenditures for other individuals in the affected hospitals, SNFs, ICFs, or ICFs/MR.

(5) The data must show the estimated annual number of beneficiaries who will be deinstitutionalized from certified hospitals, SNFs, ICFs or ICF/MRs as applicable, because they would receive home and community-based services under the waiver, and the estimated annual number of beneficiaries whose admission to such institutions would be diverted or deflected because of the waiver services. For the latter group, the State's evaluation process required by § 441.303(c) must provide for a more detailed description of their evaluation and screening procedures for recipients to assure that waiver services will be limited to persons who would otherwise receive the level of care provided in a hospital, SNF, ICF, or ICF/MR as applicable.

(6) The data must show the estimated annual number of unduplicated waiver beneficiaries who are expected to be replaced in the waiver during each year due to death or loss of eligibility for services under the State plan. This estimate must be separate from the State's estimates of the total number of unduplicated beneficiaries who would receive waiver services in each year of the waiver (factor "C" in the cost formula set forth in paragraph (f)(1) of this section). The State's estimate for factor C must include replacements for those beneficiaries who die or become ineligible for State plan services.

(g) Except as HCFA may otherwise specify for particular waivers, the agency must provide for an independent assessment of its waiver that evaluates the quality of care provided, access to care, and cost-effectiveness. The results of the assessment must be submitted to HCFA at least 90 days prior to the expiration date of the approved waiver period and cover the period up to the final year of the waiver.

(h) For States offering habilitation services that include prevocational, educational, or supported employment services, or a combination of these services, consistent with the provisions of § 440.180(b) of this chapter, an explanation of why these services are not available as special education and related services under the Education of the Handicapped Act (Pub. L. 94–142) (20 U.S.C. 1401 (16 and 17)) or as services under the Rehabilitation Act of 1973 (Pub. L. 93–112) (29 U.S.C. 730);

(i) For States offering home and community-based services for individuals diagnosed as chronically mentally ill, an explanation of why such individuals would not be placed in an institution for mental diseases (IMD)

absent the waiver, and the age group of such individuals.

6. In § 441.304, paragraphs (a) and (d) are revised to read as follows:

§ 441.304 Duration of a waiver.

(a) The effective date for a waiver of Medicaid requirements to provide home and community-based services approved under this subpart is established by HCFA prospectively on or after the date of approval and after consultation with the State agency.

(1) The initial approved waiver continues for a three-year period from the effective date. If the agency requests it, the waiver may be extended for additional periods unless—

(i) HCFA's review of the prior waiver period shows that the assurances required by § 441.302 were not met; and

(ii) HCFA is not satisfied with the assurances and documentation provided by the State in regard to the extension period.

(2) Under section 1915(c)(3) of the Act, HCFA has extended, upon request by the States, waivers that expired on or after September 30, 1985, and before September 30, 1986. These extensions were for a period of not less than one year nor more than five years.

(3) Waivers extended on or after September 30, 1986 are for a period of five years.

* * * * *

(d) If HCFA finds that an agency is not meeting any of the requirements for a waiver contained in this subpart, the agency is given a notice of HCFA's findings and an opportunity for a hearing to rebut the findings. If HCFA determines that the agency is not in compliance with this subpart after the notice and any hearing, HCFA may terminate the waiver. For example, the waiver may be terminated if HCFA finds that the agency's actual total expenditures for home and community-based and other Medicaid services provided to individuals under the waiver exceed, for any year of the waiver period, 100 percent of the amount that would be incurred by Medicaid for these individuals in a hospital, SNF, ICF, or ICF/MR, in the absence of a waiver.

§ 441.307 [Redesignated from § 441.305]

7. Section 441.305 is redesignated as § 441.307 and a new § 441.305 is added to read as follows:

§ 441.305 Replacement of recipients in approved waiver programs.

(a) State estimates of the number of individuals who may receive home and community-based services must include those who will replace beneficiaries who leave the program for any reason. States may replace beneficiaries who leave the program due to death or loss of eligibility under the State plan without regard to any Federally-imposed limit on utilization, but must maintain a record of beneficiaries replaced on this basis.

(b) Although an approved model waiver contains a Federally-imposed limit on the number of individuals who may receive home and community-based services, the agency may replace any individuals who die or become ineligible for State plan services and maintain a count up to the number specified by the State and approved by HCFA. The count may not exceed 50 recipients at any one time, which is the maximum allowed in a model waiver.

§ 441.308 [Redesignated from § 441.306]

8. Section 441.306 is redesignated as § 441.308 and a new § 441.306 is added to read as follows:

§ 441.306 Cooperative arrangements with the Maternal and Child Health program.

Whenever appropriate, the State agency administering the plan under Medicaid may enter into cooperative arrangements with the State agency responsible for administering a program for children with special health care needs under the Maternal and Child Health program (Title V of the Act) in order to ensure improved access to coordinated services to meet the needs of such children.

9. Section 441.310 is revised to read as follows:

§ 441.310 Limits on Federal financial participation (FFP).

(a) FFP for home and community-based services listed in § 440.180 (b) and (c) of this chapter is not available in expenditures for the following:

(1) Services provided in a facility subject to the health and welfare requirements described in § 441.302(a) during any period in which the facility is found not to be in compliance with the applicable State standards described in that section.

(2) The cost of room and board except when provided as part of respite care in a facility approved by the State that is not a private residence. For purposes of this provision, "board" means three meals a day or any other full nutritional regimen and does not include meals provided as part of a program of adult day health services.

(3) Prevocational, educational, or supported employment services, or any combination of these services, as part of habilitation services that are—

(i) Provided prior to April 7, 1986;

(ii) Provided in approved waivers that include a definition of "habilitation services" but which have not included prevocational, educational and supported employment services in that definition;

(iii) Provided to recipients deinstitutionalized before April 7, 1986 unless the recipients were deinstitutionalized on or after October 1, 1981 from a Medicaid-certified SNF, ICF, or ICF/MR directly into a home and community-based services waiver program authorized and financed under section 1915(c) of the Act, and also have received prevocational, educationl, or supported employment services since discharge; or

(iv) Otherwise available to the recipient under either special education and related services as defined in section 4(a)(4) of the 1975 Amendment to the Education of the Handicapped Act (Pub. L. 94–142) (now located at 20 U.S.C. 1401 (16) and (17)) or vocational rehabilitation services available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (Pub. L. 93–112) (29 U.S.C. 730).

(4) For waiver applications and renewals approved on or after October 21, 1986, home and community-based services provided to individuals aged 22 through 64 diagnosed as chronically mentally ill who would be placed in an institution for mental diseases. FFP would also be denied for such services provided to individuals aged 65 and over and 21 and under if the State does not include the appropriate optional Medicaid benefits cited at §§ 440.140 and 440.160 of this chapter in its State plan.

(b) On or after June 11, 1985, the limits specified in paragraph (a)(1) of this section are applicable to all existing and future waiver programs under this part.

(Catalog of Federal Assistance Program No. 13.714, Medical Assistance Program)

Dated: September 3, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: November 5, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 88–11903 Filed 5–31–88; 8:45 am]

BILLING CODE 4120–01–M

NATIONAL SCIENCE FOUNDATION

45 CFR Part 670

Conservation of Antarctic Animals and Plants; Enforcement and Hearing Procedures; Tourism Guidelines

AGENCY: National Science Foundation.

ACTION: Notice of public hearing.

SUMMARY: This notice announced a public hearing to examine possible tourism guidelines and revisions or additions to the National Science Foundation ("NSF") regulations concerning the Antarctic Conservation Act of 1978, Pub. L. 95–541. The present regulations at 45 CFR Part 670 implement many provisions of the Antarctic Conservation Act ("Act"). Experience with these regulations over the past several years indicates that additional detail and examples of prohibited acts may be necessary to keep the public adequately informed of its obligations. Enforcement and hearing procedures for individuals violating the Act or NSF regulations also appear warranted in view of the increasing number of visitors to the area.

Issued to be discussed include (1) guidelines for tourism in the Antarctic, including notification to domestic and international tourist agencies and potential visitors of all applicable laws, regulations, and penalties, (2) type of administrative hearing procedures to enforce the Act and NSF regulations, (3) the NSF's jurisdictional authority over U.S. companies, individual U.S. citizens or residents, or foreign nationals, (4) the factors to be considered in referral of criminal violations for possible prosecution, (5) additional details and examples of the prohibited acts described in NSF's existing regulations, and (6) any other issues concerning the subject matter of this hearing.

DATE: The public hearing will be held on Friday, July 15, 1988, at 9:00 a.m.

ADDRESSES: Written requests to participate in the public hearing must be mailed to the Office of General Counsel, National Science Foundation, 1800 G Street, NW., Washington, DC 20550, or hand delivered to the same address between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday. Requests must include the information specified below and be received no later than 5:00 p.m. on Tuesday, July 5, 1988.

Hearing Location: National Science Foundation, Room 540, 1800 G St., NW., Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Robert M. Andersen, Deputy General Counsel, Office of General Counsel, (202) 357–9435, or Dr. Anton L. Inderbitzen, Head of Antarctic Staff, Division of Polar Programs, (202) 357–7817, National Science Foundation, at the above address.

SUPPLEMENTARY INFORMATION: The National Science Foundation ("NSF") is concerned that increasing tourism in Antarctica may adversely affect the conservation and protection of the region's fauna and flora, as well as the ongoing science program and activities conducted by NSF. In a report issued by the National Science Board Committee on the NSF Role in Polar Regions, June 1987 (NSB–87–128), the Committee noted some of the adverse consequences of increased tourism, and recognized the need for a "voluntary, responsible set of guidelines for tourism in the Antarctic." The Committee also recommended that health, safety, and environmental protection practices for polar research programs, especially the Antarctic Program, be studied and upgraded where necessary.

The Division of Polar Programs, together with the Office of General Counsel, is holding this public hearing to address some of these concerns, particularly in the context of the Antarctic Conservation Act of 1978 ("Act"). The issues to be discussed at the hearing include possible tourism guidelines and revisions or additions to the regulations which implement the Act.

Although existing regulations at 45 CFR Part 670 implement many provisions of the Act, they do not provide for agency enforcement or hearing procedures if an individual violates either the Act or NSF regulations. The Act presently makes it unlawful, unless authorized by regulation or permit issued under the Act, to take native animals or birds, introduce species, enter certain special areas, or discharge pollutants. The term "take", as defined by the Act, means to harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, or capture, or to attempt to engage in any such conduct. The Act also provides for civil and criminal penalties of up to $10,000 and 1 year imprisonment. In view of the increasing number of tourists visiting the region, NSF believes that enforcement and hearing procedures may be necessary if unacceptable or illegal activities occur which jeopardize the environment or NSF's ongoing science program. Such procedures, in addition to possible tourism guidelines, will be the focus of the hearing.

The following issues may be addressed at the hearing: (1) The need for tourism guidelines (content, scope, and distribution), including notification to domestic and international tourist agencies and potential visitors of applicable laws, regulations, and penalties, (2) type of administrative hearing procedures to enforce the Act and NSF regulations, including notice requirements, whether unintentional, negligent, or intentional violations should be treated differently, and whether administrative appeals should be provided, (3) the NSF's jurisdictional authority over U.S. companies, individual U.S. citizens or residents, or foreign nationals, and the possibility of referrals to the State Department, (4) the factors to be considered in referral of criminal violations for possible prosecution, (5) additional details and examples of the prohibited acts described in NSF's existing regulations, including examples of what constitutes "taking" or "discharge" of any pollutant, and (6) any other issues concerning the subject matter of this hearing.

Persons wishing to participate in the hearing should sent a written request to the Office of General Counsel, National Science Foundation, 1800 G Street, NW., Washington, DC 20550, to be received no later than close of business Tuesday, July 5, 1988. This requirement is necessary in order to provide sufficient time to acknowledge receipt of the notices and enable alternative arrangements to be made for the hearing location if additional room is needed.

The request to participate must include the following information: (1) The name of the witness, (2) the name of the organization or association the witness is representing, and (3) a brief summary of the witness' remarks. Depending on the number of requests received, participants may be limited to a fifteen- minute oral presentation. Supplemental written submissions will be welcome.

By the National Science Foundation.

May 23, 1988.

Robert M. Andersen,

Deputy General Counsel.

[FR Doc. 88–12157 Filed 5–31–88; 8:45 am]

BILLING CODE 7555–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88–217; RM–6169]

Radio Broadcasting Services; Port St. Lucie, FL

AGENCY: Federal Communications Commission.

ACTION: Proposal rule.

SUMMARY: This document requests comments on a petition by St. Lucie Radio Corporation, which proposes to allot Channel 267A to Port St. Lucie, Florida, as a first FM service.

DATE: Comments must be filed on or before July 15, 1988, and reply comments on or before August 8, 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: Jerrold Miller, Miller and Fields, P.C. P.O. Box 33003, Washington, DC 20033 (attorney for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–217, adopted April 18, 1988, and released May 25, 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.

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 Section 1.1204(b) for rules govering permissible *ex parte* contacts.

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. 88–12193 Filed 5–31–88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87–366; RM–5746]

Radio Broadcasting Services; Murray, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of petition.

SUMMARY: This document dismisses the request of West Kentucky Broadcasting Associates proposing to allot Channel 284A to Murray, Kentucky, as a second FM service. No party expressed an interest in applying for authority to operate on Channel 284A at Murray in response to the *Notice* (52 FR 35933; September 24, 1987). With this action, this proceeding is terminated.

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. 87–366, adopted April 18, 1988, and released May 25, 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.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–12190 Filed 5–31–88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88–199, RM–6306]

Radio Broadcasting Services; Fairbury, NE

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Siebert Communications, Inc. proposing the substitution of Channel 257C1 for Channel 257A at Fairbury, Nebraska, and the modification of its license for Station KUTT(FM) to specify the higher powered channel. Channel 257C1 can be allocated to Fairbury in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 40–08–18 and West Longitude 97–10–48. In accordance with section 1.420(g) of the Commission's Rules, competing expressions of interest in use of the channel at Fairbury will not be accepted.

DATES: Comments must be filed on or before July 15, 1988, and reply comments on or before August 1, 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: Rick Siebert, President, Siebert Communications, 414 Fourth Street, Fairbury, Nebraska 68352 (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. 88–199, adopted April 18, 1988, and released May 25, 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 1.1204(b) 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. 88-12192 Filed 5-31-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-200, RM-6124; RM-6186]

Radio Broadcasting Services; Dunn, NC et al.

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This document requests comments on two mutually exclusive petitions for rule making. MECA Broadcasting, Inc. requests: the substitution of Channel 280C2 for Channel 280A at Fuquay-Varina, North Carolina, as the community's first local wide coverage area FM service and the modification of its license for Station WAZZ to specify the higher powered channel; the substitution of Channel 279A for Channel 280A at Topsail Beach, North Carolina; and the recission of petitioner's outstanding construction permit for Station WKKE, Williamston, North Carolina, specifying Class C1 facilities in lieu of its present Class C2 facilities. Channel 280C2 can be allocated to Fuquay-Varina in compliance with the Commission's minimum distance separation requirements with a site restriction of 23.3 kilometers (14.5 miles) southeast to accommodate petitioner's desired transmitter site. Channel 279A can be allocated to Topsail Beach in compliance with the Commission's minimum distance separation requirements without a site restriction and can be used at the sites specified by the applicants therefor. Landsman-Webster Communications of North Carolina, Inc. alternatively requests the substitution of Channel 278C2 for Channel 276A at Dunn, NC, and the modification of its license for Station WKDS to specify the higher powered channel. In addition, it requests the substitution of Channel 283A for unoccupied but applied for Channel 278A at Hope Mills, NC. Both parties are requested to further demonstrate why their community should receive the higher class allotments. In particular, the Commission requests a gain area showing indicating the population and square kilometers of the increased area to be served. Pursuant to Section 1.420(g) of the Commission's Rules, competing expressions of interest in use of the higher powered channel at Fuquay-Varina and Dunn will not be accepted and MECA's license for Station WAZZ, Fuquay-Varina, and Landsman-Webster's license for Station WKDS, Dunn, can be modified without requiring the demonstration of an additional equivalent channel for use by other interested persons. Since no upgrade in facilities is proposed for the Topsail Beach and Hope Mills allotments, the applicants will be permitted to amend their applications to specify the new channel, if allocated, and retain their cut-off status.

DATES: Comments must be filed on or before July 15, 1988, and reply comments on or before August 1, 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: Morton L. Berfield, Esq., Lewis I. Cohen, Esq., Cohen & Berfield, P.C., 1129 20th Street NW., Washington, D.C. 20036 (Counsel to MECA Broadcasting, Inc.) and John Wells King, Esq., Haley, Bader & Potts, 2000 M Street, NW., Suite 600, Washington, DC 20036 (Counsel to Landsman-Webster Communications of North Carolina, Inc.)

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. 88-200, adopted April 14, 1988, and released May 25, 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, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) 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.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-12191 Filed 5-31-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 215 and 252

Department of Defense Federal Acquisition Regulation Supplement; Contracting by Negotiation; Commercial Pricing Certificates for Spare or Repair Parts

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for public comments.

SUMMARY: The Defense Acquisition Regulatory Council is considering an addition of DFARS 215.813, DFARS 252.215-7004 and DFARS 252.215-7005 to implement section 101(c) of Pub. L. 99-591, now codified at 10 U.S.C. 2323.

DATE: Comments must be received by the DAR Council at the address shown below on or before July 31, 1988 to be considered in developing a final rule.

ADDRESS: Interest parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD (P)/DARS, c/o OASD (P&L) (MRS), Room 3D139, The Pentagon Washington, DC 20301-3062. Please cite DAR Case 85-72D in all correspondence related to this subject.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DFARS revisions are required by the 1987 Omnibus Appropriations Continuing Resolution (Pub. L. 99-591). Under the proposed coverage offerors/contractors in certain noncompetitive acquisitions are required to certify that the prices offered to the Government for spare or repair parts that the contractor also offers to the general public, are no higher than the lowest commercial price at which such parts were sold during the most recent regular period of not less than 30 days duration, or submit a written justification of the difference. This proposed rule is being considered for the purpose of implementing 10 U.S.C. 2323. Comments received on this

proposed rule will be considered in formulating the final rule.

B. Regulatory Flexibility Act

The proposed rule adds DFARS 215.813, DFARS 252.215–7004 and 252.215–7005 to implement Section 101(c) of Pub. L. 99–591. Under the new coverage, offerors/contractors in certain noncompetitive acquisitions are required to certify that the prices offered for spare or repair parts that the contractor offers for sale to the general public are no higher than the lowest commercial price at which such parts were sold during the most recent regular monthly, quarterly, or other period of not less than 30 days in duration, for which sales data are reasonably available. Such coverage is not expected to have a significant impact on a substantial number of small entities because the information required should be readily available to small businesses since they are less likely to have decentralized sales records and the large volume of sales transactions normally associated with larger businesses. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS Subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 88–610D in correspondence.

C. Paperwork Reduction Act

The rule does contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq. DoD is preparing for submission to OMB a request for review and approval of a new information collection.

List of Subjects in 48 CFR Parts 215 and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed to amend 48 CFR Parts 215 and 252 as follows:

1. The authority citation for 48 CFR Parts 215 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 215—CONTRACTING BY NEGOTIATION

2. Sections 215.813 through 215–813–6 are added to read as follows:

215.813 Commercial pricing certificates for spare or repair parts.

215.813–1 Definitions.

(a) "Lowest commercial price," as used in this section, means the lowest price at which a sale was made to the general public of a particular part. Such term does not include the price at which a sale was made—

(1) To any agency of the United States;

(2) To any customer for resale after such customer performs a service or function in connection with such part that increases the cost of the part, unless the agency procuring the part can demonstrate that the agency is procuring the part before such service or function has been performed by any such customer (see 215–813–5(b));

(3) To a subsidiary, affiliate, or parent business organization of the contractor, or any other branch of the same business entity;

(4) To any customer at a price that, for the purpose of making a donation, has been substantially discounted below the fair market value or regular price of such part; or

(5) To a customer located outside the United States.

(b) "Spare or repair part," as used in this section, means any individual piece, part, subassembly, or component which is furnished for the logistic support or repair of an end item and not as an end item itself.

215.813–2 Policy.

The Government should not purchase spare or repair parts offered for sale to the general public at a price that exceeds the lowest commercial price at which such parts are sold by the contractor unless the price difference is clearly justified by the seller, or unless exempt under 215.813–4. To this end, 10 U.S.C. 2323 requires an offeror to certify that the price offered is not more than its lowest commercial price, or to submit a written statement specifying the amount of any difference and providing justification for that difference. Because the forces of the competitive marketplace should ensure that the Government does not pay too high a price for commercial spare or repair parts, commercial pricing certificates are necessary only when these forces are not present in a particular contract action.

215.813–3 Applicability.

Except as provided in 215.813–4, the contracting officer shall request that a commercial pricing certificate be submitted in connection with any offer/proposal covering spare or repair parts which is submitted in connection with any of the following:

(a) Contracts awarded using other than competitive procedures, that is, those procedures under which an agency enters into contracts pursuant to other than full and open competition (see Subpart 206.3).

(b) Contract modifications including contract modifications for additional items but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause (but see paragraph (e) of this section), or funding and other administrative changes.

(c) Noncompetitive orders under the provisioning line item of a contract or under a Basic Ordering Agreement or under a similar arrangement.

(d) Definitization of price or a letter contract, unpriced order, or other contract, modification, or order awarded without a definitive price. The commercial pricing certificate is not required prior to the initial award, but rather will be submitted with the offer or proposal to definitize.

(e) Any modification issued pursuant to the Changes clause which results in the providing of new or different commercial spare or repair parts.

215.813–4 Exemptions from commercial pricing certificates.

The contracting officer shall not request that a commercial pricing certificate be submitted when—

(a) Using the simplified small purchase procedures of Part 213;

(b) An order is placed under an indefinite delivery type contract. (A certificate is required in connection with the award without full and open competition of an indefinite delivery type contract.);

(c) The contracting officer determines that obtaining the commercial pricing certificate is not appropriate because of:

(1) National security considerations, or

(2) Significant differences in quantities, quality, delivery, or other terms and conditions of the contract from commercial contract terms;

(d) An order is placed under the procedures established by the General Services Administration for its multiple award schedule program.

(e) Using the sealed bid procedures of Part 214.

215.813–5 Procedures.

(a) When commercial pricing certificates are required in accordance with 215.813–3, the contracting officer shall request the certificate as set forth

in paragraph (b) of the clause at 252.215–7004, Certification of Commercial Pricing for Spare or Repair Parts, and ensure that the certificate is submitted at the appropriate time. The certificate may be requested through the use of a solicitation provision such as the one at 252.215–7005. Circumstances may make advance agreements desirable between an offeror/contractor and a contracting officer in areas such as detailed repetitive justifications, determinations to include sales to persons or corporations for resale and the time period covered by the certificate. Provided the Government's interests are adequately protected, contracting officers may consider these types of arrangements as a means of lessening the administrative burdens of certificates of commercial pricing.

(b) A contracting officer may make a determination that the definition of "lowest commercial price" in the clause at 252.215–7004 shall include the price at which a sale was made to any person or corporation for resale by the person or corporation. In making this determination, the contracting officer must be able to demonstrate that the spare or repair parts are being procured by the contracting officer under the same terms and conditions at which a sale was made to the person or corporation for resale.

(c) The contracting officer shall request submission of a new certificate when the validity of the certificate originally submitted with an offer/proposal becomes doubtful prior to award due to submission of a new or revised proposal or as a result of discussions.

(d) If, before agreements on price, the contracting officer learns that the certificate is inaccurate, incomplete, or misleading, the contracting officer shall immediately bring the matter to the attention of the offeror/contractor, request a revised certificate, and negotiate accordingly.

(e) If, after award or agreement on price, the contracting officer learns or suspects that a certificate was inaccurate, incomplete, or misleading, the contracting officer shall request, as appropriate, an audit under authority of paragraph (c) of the clause at 252.215–7004. If the contracting officer determines that a certificate was inaccurate, incomplete, or misleading, the Government is entitled to an equitable price adjustment (see paragraph (d) of the clause at 252.215–7004).

(f) Individual or class determinations made under 215.813–4(c) and advance agreements and determinations under this subsection, shall be documented in the contract file.

(g) Possession of a contractor's Certificate of Commercial Pricing is not a substitute for examining and analyzing a contractor's proposal and determining that the prices offered are fair and reasonable. Notwithstanding the submission of a Certificate of Commercial Pricing, Subpart 215.8 must be complied with. Particular attention should be paid to FAR 15.804–3(c) with regard to items which are substantially similar to commercial items sold in substantial quantities at established catalog or market prices.

215.813–6 Contract clauses.

(a)(1) The contracting officer shall insert the clause at 252.215–7004, Certification of Commercial Pricing for Spare or Repair Parts, in all solicitations and contracts when a commercial pricing certificate is required in accordance with 215.813–3, unless exempt under 215.813–4.

(2) The contracting officer shall use the clause at 252.215–7004 with its Alternate I when a determination has been made in accordance with 215.813–5(b).

(b) The contracting officer may use the provision at 252.215–7005, Spare or Repair Parts Pricing Certifications, in solicitations when a certificate is required. The provision may also be appropriately modified and included as a clause in contracts that provide for subsequent noncompetitive ordering of spare and repair parts and for which certificates will be required.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.215–7004 is added to read as follows:

252.215–7004 Certification of Commercial Pricing for Spare or Repair Parts.

As prescribed in 215.813–6(a) insert the following clause:

Certification of Commercial Pricing for Spare or Repair Parts

(Date)

(a) Definitions.

(1) "Lowest commercial price," as used in this clause, means the lowest price at which a sale was made to the general public of a particular part. Such term does not include the price at which a sale was made—

(i) To any agency of the United States;

(ii) To any customer for resale by such customer after such customer performs a service of function in connection with such part that increases the cost of the part, unless the agency procuring the part can demonstrate that the agency is procuring the part before such service or function has been performed by any customer;

(iii) To a subsidiary, affilate, or parent business organization of the contractor, or any other branch of the same business entity;

(iv) To any customer at a price that, for the purpose of making a donation, has been substantially discounted below the fair market value or regular price of such part; or

(v) To a customer located outside the United States.

(2) "Spare or repair part," as used in this clause, means any individual piece, part, subassembly, or component which is furnished for the logistic support or repair of an end item and not as an end item itself.

(b) When requested by the Contracting Officer in accordance with the requirements of sections 215.813–3 and 215.813–4, the Offeror/Contractor shall execute and submit the following certificate:

Certificate of Commercial Pricing

(1) Unless justified in paragraph (b)(2) below, the Offeror/ Contractor certifies to the best of its knowledge and belief that the prices offered for those spare or repair parts (whether identified as separate line items or on an exhibit or attachment) that the Contractor offers for sale to the general public are no higher that the lowest commercial price at which such parts were sold, during the most recent regular monthly, quarterly, or other period for which sales data are reasonably available; *Provided,* That in no event shall this period be less than 30 days in duration.

(2) All items for which prices offered are higher than the commercial sales price referred to in paragraph (b)(1) above are identified below (including the amount(s) by which such offered prices are higher) and a written justification for the differences is attached.

Items and Price Differences

_____

_____

_____

_____

(list as necessary)

Offer/Proposal No. _____

Time period for sales data _____

Firm _____

Name _____

Signature _____

Title _____

Date _____

(End of certificate)

(c) The Contracting Officer or representatives of the Contracting Officer who are employees of the Government shall

have the right to examine and audit all directly pertinent records of sales, including contract terms and conditions, necessary to verify the validity of any certificate executed in accordance with paragraph (b) above. The Contractor shall make these records, books, data and documents available for examination, audit, or reproduction until three (3) years after the date the certificate set forth in paragraph (b) above is executed. Nothing contained in this paragraph shall require the submission of cost or pricing data not otherwise required by law or regulation.

(d) If any price, including profit or fee negotiated in connection with this contract, or any cost reimbursable under this contract has increased because the certification in paragraph (b)(1) of the Certificate or the information provided as justification in paragraph (b)(2) of the Certificate was inaccurate, incomplete, or misleading, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(End of clause)

Alternate I (Date). Delete subparagraph (a)(1)(ii) and renumber (iii), (iv) and (v) as (ii), (iii) and (iv) respectively.

4. Section 252.215–7005 is added as follows:

252.215–7005 Spare or repair parts pricing certifications.

As prescribed in 215.813–6(b) insert the following provision:

Spare or Repair Parts Pricing Certifications

(Date)

Line Items _____ of this solicitation are being procured as spare and repair parts under conditions that require the submission of a Commercial Pricing Certificate. The Offeror/Contractor shall comply with the clause entitled "CERTIFICATION OF COMMERCIAL PRICING FOR SPARE OR REPAIR PARTS (DATE)" (DFARS 252.215–7004) and execute and submit a certificate with its offer/proposal.

(End of Provision)

[FR Doc. 88–12226 Filed 5–31–88; 8:45 am]
BILLING CODE 3810–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1002

[Ex Parte No. 246 (Sub-No. 6)]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services; 1988 Update

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is required by the regulations in 49 CFR 1002.3 to update user fees annually. In this decision the Commission is announcing the 1988 fee update, which is based on the revised update formula that was adopted in Ex Parte No. 246 (Sub No. 5), *Regulations Governing Fees For Services Performed—1987 Update*, 4 I.C.C.2d 137 (1987).

The Commission is proposing to increase various fees which were set at less than full cost in our 1984 major fee program revision. Also, the cost data for fee item (100) relating to applications for the Commission's Practitioner Exam has been modified, and the Commission proposes to increase that fee so that the Commission's current costs for processing requests to take the exam are covered.

DATE: Comments are due on July 1, 1988.

ADDRESS: Send an original and 15 copies of comments to: Ex Parte No. 246 (Sub-No. 6), Case Control Branch, Room 1324, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Kathleen M. King, 202–275–7428.

For Costing Information:

William W. England, 202–275–7472 or Michael A. Stolica, 202–275–7765.

TDD for the hearing impaired: (202–275–1721.)

SUPPLEMENTARY INFORMATION: The Commission is required by its regulations at 49 CFR 1002.3 to update user fees annually. The 1988 update factors are as follows:

FY–1988 General Pay Increase	2 percent
Government Fringe Benefits	47.05 percent
Operations Overhead	7.97 percent
Office General & Administrative Expenses	19.64 percent
Commission General & Administrative Expenses	10.48 percent

The fees which will increase are a direct result of the 1988 update are identified below with double stars (**). The Commission has determined that previous policy decisions to set some fees at less than fully distributed costs should be reconsidered. See *Regulations Governing Fees For Services*, 1 I.C.C.2d 60 (1984) and *Regulations Governing Fees For Services Performed—1987 Update*, 4 I.C.C.2d 137 (1987).

Accordingly, the Commission is proposing to increase the capped/reduced fee for the fee items which are identified below with a single star (*).

A copy of the Commission's full decision in this matter is available from the Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423, [202–275–7428];

List of Subjects in 49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information.

The Commission does not believe that the proposal to increase the capped or reduced fees will have a significant economic impact on a substantial number of small entities because the Commission's regulations provide for waiver of filing fees for entities which can make the required showing of financial hardships.

The decision will not have a significant impact upon the quality of the human environment or conservation of energy resources. *It is ordered:*

Title 49 of the Code of Federal Regulations is proposed to be amended as set forth below.

Decided: May 25, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons and Lamboley.

Noreta R. McGee,

Secretary.

Title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1002—FEES

1. The authority citation for this part is proposed to continue to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A), 5 U.S.C. 553, 31 U.S.C. 9701 and 49 U.S.C. 10321.

§ 1002.1 [Amended]

2. In § 1002.1, the dollar amount "$17.00" in paragraph (b) would be revised to read "$18.00".

3. In § 1002.1, the dollar amount of "$30.00" in paragraph (e)(3) would be revised to read "$45.00".

4. In § 1002.1, the table in paragraph (f)(6) would be revised to read as follows:

GS–1	$5.33
GS–2	5.80
GS–3	6.54
GS–4	7.34
GS–5	8.21
GS–6	9.15
GS–7	10.17
GS–8	11.26
GS–9	12.44
GS–10	13.70
GS–11	15.05
GS–12	18.04
GS–13	21.45
GS–14	25.35
GS–15 & above	29.82

§ 1002.2 [Amended]

5. In § 1002.2, paragraph (a) would be revised to read as follows:

§ 1002.2 Filing fees.

(a) *Manner of payment.* (1) Except as specified in paragraph (a)(2) of this section, all filing fees will be payable at the time and place the application, petition, notice, tariff, contract or other document is tendered for filing.

(2) When emergency temporary operating authority applications (Item 9) and emergency temporary operating authority extensions (Item 10) are initiated by telegram or telephone, the fee or fees are due when the OP–MCB–95 application is submitted to the appropriate Commission regional office.

(3) Fees will be payable to the Interstate Commerce Commission by check drawn upon funds deposited in a bank in the United States or money order payable in U.S. currency or credit cards (Visa or Master Card).

* * * * *

6. In § 1002.2, paragraph (f) is proposed to be revised to read as follows:

(f) *Schedule of filing fees.*

Type of proceedings	Fees
Part I—Non-Rail Applications for Operating Authority or Exemptions	
(1) An application for motor carrier operating authority; a certificate of registration including a certificate of registration for certain foreign carriers; broker authority; water carrier operating or exemption authority; or household goods freight forwarder authority	$200
(2) A fitness only application for motor common carrier authority under 49 U.S.C. 10922(b)(4)(E) or motor contract authority under 49 U.S.C. 10923(b)(5)(A) to transport food and related products	100
(3) A petition to interpret or clarify an operating authority under 49 CFR 1160.64	2,000
(4) A request seeking the modification of operating authority only to the extent of making a ministerial correction, when the original error was caused by applicant, a change in the name of the shipper or owner of a plantsite or the change of a highway name or number	30
*(5) A petition to renew authority to transport explosives under 49 U.S.C. 10922 or 10923	150
(6) An application to remove restriction or broaden unduly narrow authority under 49 CFR 1160.107 through 1160.114	200
(7) An application for authority to deviate from authorized regular route authority 49 U.S.C. 10923(a)	100
(8) An application for motor carrier or water carrier temporary authority under 49 U.S.C. 10928(b)	90
(9) An application for motor carrier emergency temporary authority 49 U.S.C. 10928(c)(1)	70
(10) An extension of the time period during which an outstanding application for emergency temporary authority as defined in 49 U.S.C. 10928(c)(1) may continue	17
**(11) Request for name change of carrier, broker, or household goods freight forwarder	8
(12) A notice required by 49 U.S.C. 10524(b) to engage in compensated intercorporate hauling incuding an updated notice required by 49 CFR 1167.4	60
(13) A notice of intent to operate under the agricultural co-operative exemption in 49 U.S.C. 10526(a)(5)	60
(14) [Reserved]	
(15) A joint petition to substitute applicant in a pending operating rights proceeding	20
(16) [Reserved]	
Part II—Non-Rail Applications To Discontinue Transportation	
**(17) A notice or petition to discontinue ferry service 49 U.S.C. 10908	8,200
*(18) A petition to discontinue motor carrier of passenger transportation in one state	1,000
(19) [Reserved]	
Part III—Non-Rail Applications To Enter Upon a Particular Financial Transaction or Joint Arrangement	
**(20) An application for the pooling or division of traffic	1,600
(21) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor or water carrier or carriers under 49 U.S.C. 11343	750
**(22) An application for approval of a non-rail rate association agreement. 49 U.S.C. 10706	10,100
(23) An application for approval of an amendment to a non-rail rate association agreement:	
(i) Significant Amendment	4,700
(ii) Minor Amendment	30
(24) An applicatrion for temporary authority to operate a motor or water carrier. 49 U.S.C. 11349	150
(25) An application to transfer or lease a certificate or permit, including a certificate of registration, and a broker license or change of control of companies holding broker's license 49 U.S.C. 10926, or a transfer of a water carrier exemption authorized under 49 U.S.C. 10542 and 10544	200
(26) An application for approval of a motor vehicle rental contract. 49 CFR 1057.41(d)	150
(27) A petition for exemption under 49 U.S.C. 11343(e)	200
(28) [Reserved]	
(29) [Reserved]	
(30) [Reserved]	
(31) [Reserved]	
(32) [Reserved]	
Part IV—Rail Applications For Operating Authority	
(33)(a) An application for a certificate authorizing the construction, extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901	2,600
(33)(b) Exempt transaction under 49 CFR 1150.31	550
(34) Feeder LIne Development Program application filed under 49 U.S.C. 10910(b)(1)(A)(i)	3,200
(35) A Feeder Line Development Program application filed under 49 U.S.C. 10910(b)(1)(A)(ii)	1,800
(36) [Reserved]	
(37) [Reserved]	
Part V—Rail Applications to Discontinue Transportation Services	
(38) An application for authority to abandon all or a portion of a line of railroad or operation thereof filed by a railroad (except applications filed by Cnsolidated Rail Corporation pursuant to the North East Rail Service Act, bankrupt railroads or exempt abandonments under 49 CFR 1152.50)	2,100
(39) An application for authority to abandon all or a portion of a line of railroad or operation thereof filed by Consolidated Rail Corporation pursuant to North East Rail Service Act	150
(40) Abandonments filed by bankrupt railroads. 49 CFR 1152.40	650
**(41) Exempt abandonment. 49 CFR 1152.50	800
**(42) A notice or petition to discontinue passenger train service	8,200
(43) [Reserved]	
Part VI—Rail Applications To Enter Upon a Particular Financial Transaction or Joint Arrangement	
**(44) An application for use of terminal facilities or other applications under 49 U.S.C. 11103	6,900
(45) An application for the pooling or division of traffic. 49 U.S.C. 11342	4,700
*(46) An application for two or more carriers to consolidate or merge their properties or franchises (or a part thereof) into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11343:	
(i) Major transaction	135,300
(ii) Significant transaction	27,000
(iii) Minor transaction	2,300
(iv) Exempt transaction (49 CFR 1080.2(d))	550
(v) Responsive application	2,300
*(47) An application of a noncarrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11343:	
(i) Major transaction	135,300
(ii) Significant transaction	27,000
(iii) Minor transaction	2,300
(iv) Exempt transaction (49 CFR 1080.2(d))	550
(v) Responsive application	2,300
*(48) An application to acquire trackage rights over, joint ownership in, or joint use of, any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11343:	
(i) Major transaction	135,300
(ii) Significant transaction	27,000
(iii) Minor transaction	2,300
(iv) Exempt transaction (49 CFR 1080.2(d))	550
(v) Responsive application	2,300
*(49) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11343:	
(i) Major transaction	135,300
(ii) Significant transaction	27,000
(iii) Minor transaction	2,300
(iv) Exempt transaction (49 CFR 1080.2(d))	550

Type of proceedings	Fees
(v) Responsive application	2,300
*(50) An application for a determination of fact of competition. 49 U.S.C. 11321(a)(2) or (b)	27,000
**(51) An application for approval of a rail rate association agreement. 49 U.S.C. 10706	25,500
(52) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant Amendment	4,700
(ii) Minor Amendment	30
(53) An application for authority to hold a position as officer or director. 49 U.S.C. 11322	250
(54)(a) An application to issue securities; an application to assume obligation or liability in respect to securities of another; an application or petition for modification of an outstanding authorization; or an application for exemption for competitive bidding requirements of Ex Parte No. 158, 49 CFR 1175. 49 U.S.C. 11301	1,200
(54)(b) An exempt transaction under 49 CFR Part 1175	550
(55) A petition for exemption (other then a rulemaking) filed by rail carriers. 49 U.S.C. 10505	650
(56) An application for forced sale of bankrupt railroad lines. 49 CFR 1180.40-1180.49, 45 U.S.C. 915	1,400
(57) [Reserved]	
(58) [Reserved]	
(59) [Reserved]	
Part VII—Formal Proceedings	
*(60) A complaint alleging unlawful rates or practices of carriers, property brokers or freight forwarders of household goods	5,200
*(61) A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates, fares or charges. 49 U.S.C. 10705(f)(1)(A)	3,200
*(62) A petition for declaratory order:	
(i) A petition for declaratory order involving dispute over an existing rate or practice which is comparable to a complaint proceeding	2,500
(ii) All other petitions for declaratory order	1,800
**(63) Requests for nationwide and regional collectivity filed general rate increases and major rate restructures accompanied by supporting cost and financial information justifying the increase	5,600
(64) A petition for exemption for filing tariffs by water and bus carriers	150
**(65) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	2,600
*(66) Petition for review of state regulation of interstate rates, rules or practices filed by interstate rail carriers. 49 U.S.C. 11501	1,000
*(67) Petition for review of state regulation of intrastate rates, rules or practices filed by interstate bus carriers. 49 U.S.C. 11501	1,000
(68) [Reserved]	
(69) [Reserved]	
(70) [Reserved]	
(71) Reserved]	
Part VIII—Informal Proceedings	
(72) An application for authority to establish released value rates or ratings under 49 U.S.C. 10730 (Except that no fee will be assessed for applications seeking such authority in connection with reduced rates established to relieve distress caused by drought or other natural disaster	400
(73) An application for special permission for short notice or the waiver of other tariff publishing requirements	40
(74) The filing of tariffs, rate schedules and contracts including supplements	[1] 7
(75) Special docket application from rail and water carriers. (There is no fee for requests involving sums of $25,000 or less)	50
*(76) Informal complaint about rail rate application	200
*(77)(a) An application for original qualification as self-insurer for bodily injury and property damage insurance (BIPD)	2,700
*(77)(b) An application for original qualification as self-insurer for cargo insurance	250
(78) A service fee for insurer, surety or self-insurer accepted certificate of insurance, surety bond or other instrument submitted in lieu of a broker surety bond. The fee is based on a formula of $10 per accepted certificate of insurance or surety bond as indication of ICC insurance activity. (There is a $50 annual minimum; but the minimum does not apply to an instrument submitted in lieu of a broker surety bond)	[2] 10
(79) A petition for waiver of any provision of the lease and interchange regulations. 49 CFR Part 1057	300
**(80) A petition for reinstatement of revoked operating authority	50
(81) [Reserved]	
(82) [Reserved]	
*(83) Petition for reinstatement of a dismissed operating rights application	250
(84) Filing of documents for recordation. 49 U.S.C. 11303 and 49 CFR 1177.3(c)	[3] 13
(85) Valuations of railroad lines in conjunction with purchase offers in abandonment proceedings	1,000
(86) Informal opinions about rate applications (all modes)	40
(87)—(95)[Reserved]	
Part IX—Services	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent	[4] 10
(97) Request for service list for proceedings	[5] 7
(98) Requests for copies of the one-percent carload waybill sample	100
(99) Verification of surcharge level pursuant to Ex Parte No. 389, Procedures for Requesting Rail Variable Cost & Revenue Determination for Joint Rates Subject to Surcharge or Cancellation	[6] 14
*(100) Application fee for Interstate Commerce Commission Practitioners' Exam	60

Editorial Notes:

* All single starred fee items are capped or reduced fees which are proposed to be increased.

** All double starred fee items are proposed to be increased as a direct result of the 1988 Update.

[1] Per series transmitted.

[2] Per accepted certificate or other instrument submitted in lieu of a broker surety bond.

[3] Per document.

[4] Per delivery.

[5] Per list.

[6] Per movement verified.

[FR Doc. 88-12168 Filed 5-31-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 80334-8034]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California; Withdrawal of Proposed Rule

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule; withdrawal.

SUMMARY: In response to a request by the Pacific Fishery Management Council, NOAA proposed regulations to be implemented under the emergency authority of section 305(e) of the Magnuson Act to (1) alter, during the 1988 season, the schedule in the 1984 framework amendment to the Fishery Management Plan for the Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California (FMP), which allocates coho and chinook salmon between non-Indian commercial and recreational ocean fisheries north of Cape Falcon, Oregon, and (2) increase inseason management flexibility in 1988 to allow the total ocean quotas to be harvested. Following public comment, the Secretary of Commerce denied the Council's request for implementation by emergency authority and recommended that the Council pursue implementation through the fishery management plan amendment process. Therefore, NOAA withdraws the proposed rule.

DATE: This withdrawal is effective June 1, 1988.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140.

SUPPLEMENTARY INFORMATION: On March 14, 1988, NOAA proposed regulations (52 FR 8234) to be implemented under the emergency authority of section 305(e) of the Magnuson Act, 16 U.S.C. 1855(e), as amended, which would (1) alter, during 1988, the schedule in the 1984 framework amendment to the FMP, which allocates coho and chinook salmon between non-Indian commercial and recreational ocean fisheries north of Cape Falcon, Oregon, and (2) increase inseason

management flexibility in 1988 to allow the total ocean quotas to be harvested. Public comments on the proposed regulations were requested and accepted through March 23, 1988. The revised allocation schedule and inseason flexibility provisions were recommended by the Pacific Fishery Management Council (Council) at its January 13–14, 1988, meeting, following an extensive developmental process beginning in April 1987. While the Council asked that the Secretary of Commerce (Secretary) implement these provisions for the 1988 fishing season by emergency authority, it is also preparing an amendment to the FMP for implementation through the normal plan amendment process. Additional details relevant to the development of the Council's recommendation are contained at 53 FR 8234 (March 14, 1988).

Following evaluation of the proposed regulations and review of the substantial number of public comments received, the Secretary denied the Council's recommendation for implementation of the proposed regulations by emergency authority on March 29, 1988. The Secretary concluded that, in the absence of a clear showing of economic effectiveness and adequate biological justification or quantifiable social or ecological factors, the measure did not qualify for implementation using the special emergency authority of section 305(e) of the Magnuson Act. The decision to deny implementation of the allocation plan by emergency authority for the 1988 season has no bearing on the approvability of any future FMP amendment, which may address the same issues. More specific reasons for denial are discussed below:

1. Negative economic effects. The most recent economic analyses prepared by the Council comparing the proposed interim allocation schedule to the current framework allocation schedule showed negative net economic values and negative community impacts at some low levels of ocean harvest similar to those that were under consideration by the Council for the 1988 fishing season. This analysis casts substantial doubt that the proposed interim allocation plan, as described at 53 FR 8234 (March 14, 1988), would be effective for improving coastal economies when the total allowable ocean harvests are as low as expected in 1988. In short, it appeared that the allocation plan might not achieve its stated purpose because critical assumptions on which it was originally based seemed no longer valid.

2. Inadequately specified inseason flexibility. The proposed inseason management flexibility language did not provide sufficient detail concerning the criteria and conditions under which inseason adjustments could be taken to best meet the allocation goal.

3. Elimination of preseason flexibility. The Council requested that its interim allocation plan replace, in its entirety, Appendix II.B.2(a) of the framework regulations. As a result, the proposed rule would have deleted current preseason framework flexibility to shape fisheries by substituting species. It also would have deleted certain limitations on species substitutions and geographic transfers of species quotas, which are contained in the current regulations.

The Council did not provide any rationale for deleting these provisions of the current regulations. Such rationale is important because it appears that deletion of part of these provisions would be inconsistent with the need expressed by State fishery managers to use the preseason trade provision to shape ocean fisheries in 1988.

4. Public comments. The majority of comments received during the public comment period opposed implementation by emergency authority, citing the closeness of the Council's vote (7–5), noting the lack of any impact analysis available to the Council before its vote, and questioning the validity of a socioeconomic emergency. The Secretary shared those concerns.

Other Matters

The Secretary supports the Council's efforts to devise a management system that maximizes net benefits to coastal communities, but does not believe that it was adequately shown that the proposed allocation plan would meet this objective under the conditions prevailing in 1988. In the long term, a revised allocation plan with greater preseason and inseason management flexibility may provide benefits to fishermen and coastal communities. For the reasons cited above, NOAA has withdrawn the proposed rule, published at 53 FR 8234 (March 14, 1988).

Subsequent to the Secretary's denial of the Council's January request, the Council requested another emergency rule to implement management measures for the 1988 fishing season. The season measures proposed by the Council required several deviations from the existing framework FMP, and needed to be implemented by the first of May, thereby necessitating an emergency interim rule. The deviations from the existing terms of the FMP and implementing regulations affecting the area north of Cape Falcon included: (1) retention of the FMP's existing allocation schedule for coho and chinook north of Cape Falcon, unlike the rule proposed at 53 FR 8234, (March 14, 1988), but modification of the preseason constraint on species substitution in the recreational and commercial fisheries as a means of ensuring full harvest of available quotas and (2) adoption of a provision for the area north of Cape Falcon to reallocate any unharvested commercial chinook quota at season's end to the recreational fishery. The Secretary approved this Council request since the measures were justified by documented economic and biological benefits addressing the emergency conditions in the fishery, were supported by a strong Council majority and represented compromises negotiated among numerous user groups. This emergency interim rule was effective May 1, 1988 and published at 53 FR 16002 (May 4, 1988).

Dated: May 26, 1988.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 88–12232 Filed 5–31–88; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 53, No. 105
Wednesday, June 1, 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

Public Meeting of Assembly; Plenary Session

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. No. 92–463, that the membership of the Administrative Conference of the United States will meet in Plenary Session on Thursday, June 9, 1988, at 1:15 p.m., and Friday, June 10, 1988, at 9:30 a.m., in the Amphitheatre of the Federal Home Loan Bank Board, Second Floor, 1700 G Street NW., Washington, DC. The Conference makes recommendations to administrative agencies, the President, Congress, and the Judical Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs.

The Conference will consider, not necessarily in the order stated, proposed recommendations of the following subjects:

1. Presidential Transition Workers' Standards of Conduct.
2. Indemnification of Government Contractors.
3. The Federal Reserve Board's Handling of Applications Under the Bank Holding Company Act.
4. Deferred Taxation of Gains From Conflict-of-Interest Divestiture.
5. Forum for Judicial Review of Preliminary Challenges to Agency Action.
6. Agency Use of Statement Judges.
7. Statement on Dispute Resolution Procedures in Reparations and Similar Cases.

Plenary Sessions are open to the public. Further information of the meeting, including copies of proposed recommendations, may be obtained from the Office of the Chairman, 2120 L Street, NW., Suite 500, Washington, DC 20037, telephone (202) 254–7020.

Jeffrey S. Lubbers,
Research Director.
May 27, 1988.

[FR Doc. 88–12375 Filed 5–31–88; 8:45 am]
BILLING CODE 6110–01–M

AFRICAN DEVELOPMENT FOUNDATION

Advisory Council Meeting

Time: 10:00–12:00 p.m.
Place: African Development Foundation, 1625 Massachusetts Avenue, NW., Washington, DC 20036.
Date: Wednesday, 08 June 1988.
Status: Open.

Agenda

1. Chairman's Report
2. President's Report on OTA Assessment
3. Discussion: Establishment of "ADF Friends" throughout the U.S.
4. Video presentation of ADF projects.

CONTACT PERSON FOR MORE INFORMATION: Ms. Janis McCollim, 673–3916.

Leonard H. Robinson, Jr.,
President.

[FR Doc. 88–12206 Filed 5–31–88; 8:45 am]
BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB–88–101]

Flue-Cured Tobacco Advisory Committee; Committee Renewal

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of committee renewal.

SUMMARY: Notice is hereby given that the Secretary of Agriculture has renewed the Flue-Cured Tobacco Advisory Committee for an additional period of 2 years.

DATES: The Committee's present charter runs from May 6, 1988 through May 6, 1990.

ADDRESS: The Committee reports to the Director, Tobacco Division, Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), 300 12th Street, SW., Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Sam E. Story, Deputy Director, Tobacco Division, AMS, USDA, 300 12th Street, SW., Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7235.

SUPPLEMENTARY INFORMATION: The Committee recommends opening dates and selling schedules for the flue-cured marketing area which aid the Secretary in making an equitable apportionment and assignment of tobacco inspectors. The Committee consists of 39 members; 21 producers, 10 warehousemen, and 8 buyers, representing all segments of the flue-cured tobacco industry and meets at the call of the Secretary. The Secretary has determined that renewal of this Committee is in the public interest.

This notice is given in compliance with the Federal Advisory Committee Act (5 U.S.C. App. I).

Dated: May 26, 1988.

J. Patrick Boyle,
Administrator.

[FR Doc. 88–12265 Filed 5–31–88; 8:45 am]
BILLING CODE 3410–02–M

[TB–88–100]

National Advisory Committee for Tobacco Inspection Services; Committee Renewal

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of committee renewal.

SUMMARY: Notice is hereby given that the Secretary of Agriculture has renewed the National Advisory Committee for Tobacco Inspection Services for an additional period of 2 years.

DATES: The Committee's present charter runs from March 10, 1988 through March 10, 1990.

ADDRESS: The Committee reports to the Director, Tobacco Division, Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), 300 12th Street, SW., Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Sam E. Story, Deputy Director, Tobacco

Division, AMS, USDA, 300 12th Street, SW., Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7235.

SUPPLEMENTARY INFORMATION: The Committee consists of 14 producers of tobacco representing all production areas and meets at the call of the Secretary. Authority for this Committee is section 5 of the Tobacco Inspection Act, as amended (7 U.S.C. 511d).

This notice is given in compliance with the Federal Advisory Committee Act (5 U.S.C. App. I).

Dated: May 26, 1988.

J. Patrick Boyle,

Administrator.

[FR Doc. 88–12266 Filed 5–31–88; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

1988-Crop Honey Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of final determinations.

SUMMARY: This notice sets forth the final determinations with respect to the level of price support and the lower loan repayment provisions for the honey price support program for the 1988 crop of honey. These determinations are made pursuant to section 201(b) of the Agricultural Act of 1949, as amended hereinafter referred to as the "1949 Act").

EFFECTIVE DATE: This notice of determinations is effective for the 1988 crop of honey.

ADDRESS: Dr. Orval Kerchner, Acting Director, Commodity Analysis Division, USDA–ASCS, Room 2741, South Building P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Jane K. Phillips, Agricultural Economist, Commodity Analysis Division, USDA, Room 3754 South Building, P.O. Box 2415, Washington, DC 20013, (202) 447–7602. The Final Regulatory Impact Analysis describing the actions taken in this notice of final determinations and their impact is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice of determinations has been made under USDA procedures implementing Executive Order 12291 and Departmental Regulations 1512–1 and has been classified "not-major." It has been determined that these determinations will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases 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 U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which these determinations apply are: Commodity Loans and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of final determinations since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

It has been determined by an environmental evaluation that this action wll have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 2015, Subpart V, published at 47 FR 29115 (June 24, 1983).

Section 201(b) of the Agricultural Act of 1949 (the "1949 Act"), as amended, provides that the support level shall be 63 cents per pound for the 1987 crop of honey and for the 1988 crop of honey shall be 95 percent of the price support rate for the previous year's crop, but not less than 75 percent of the simple average price received by producers of honey for the preceding 5 crop years, excluding the high and low years. The Omnibus Budget Reconciliation Act of 1987 amended section 201(b) of the Act to require that once the support levels have been determined using the above method, the 1987 and 1988 rates must be reduced by 2 cents and 0.75 cents per pound, respectively.

The price support loan rate for the 1987 crop of honey was 63 cents per pound which, when reduced by 5 percent, equals 59.85 cents per pound. Seventy-five percent of the simple average price received by producers in the 5 preceding crop years, excluding the highest and lowest years, is 35.1 cents per pound. Therefore, since the established loan rate (59.85 cents per pound) is in excess of that amount, 59.85 cents per pound is reduced by 0.75 cents per pound, resulting in a price support loan rate for 1988 crop honey of 59.1 cents per pound.

In accordance with section 403 of the 1949 Act, the loan rate for the 1988 crop of honey may be adjusted to reflect floral source, color, class and grade, and other market differentials which are applicable to the marketing of honey.

Under the provisions of section 201(b) of the 1949 Act the Secretary may permit producers who have obtained price support loans with respect to the 1986–1990 crops of honey to repay such loans at a level that is the lesser of:

(a) The loan level determined for such crop; or

(b) Such level that the Secretary determines will:

(1) Minimize the number of loan forfeitures;

(2) Not result in excessive total stocks of honey;

(3) Reduce the costs incurred by the Federal Government in storing honey; and

(4) Maintain the competitiveness of honey in domestic and export markets.

Accordingly, on March 15, 1988, a notice of proposed determinations was published in the **Federal Register** (53 FR 8478) requesting comments concerning the conduct of the price support program for honey through the use only of loans and not purchase agreements, providing adjustments to the loan rate based on color, class and grade, and other market differentials, and permitting repayment of such loans at the lesser of the loan level for such crop or at a level determined by the Secretary or his designee.

Discussion of Comments

Four written comments were received in response to the notice of proposed determinations. One respondent recommended that price support for honey be terminated. This is not possible since the price support program for honey is required by law. The three other respondents agreed that a honey support program was necessary and vital to the industry. They also favored continuing the option permitting loan repayments at levels lower than the established loan rates.

After taking the foregoing comments into consideration, and in order to implement the statutory requirement that the Secretary shall support the price of honey for the 1988 through 1990 marketing years, the following final determinations are made with respect to the honey price support program for the 1988-crop:

Final Determinations

(a) The 1988-crop honey price support program will be a loan program with a loan rate of 59.10 cents per pound.

(b) The 1988-crop honey loan rate has been adjusted as follows to reflect floral source, color, class and grade, and other market differentials under which honey is marketed. White or lighter honey will be supported at 62.02 cents per pound; extra light amber, 58.22 cents per pound; light amber, 53.66 cents per pound; and amber and non-table honey, 48.06 cents per pound.

(c) Producers with price support loans for the 1988-crop honey will be permitted to repay such loans at the lesser of the loan level for such crop or at a level which the Secretary or a designee shall determine. The repayment level shall be a level which will minimize the number of loan forfeitures, not result in excessive total stocks of honey, reduce the costs incurred by the Federal Government in storing honey, and maintain the competitiveness of honey in domestic and export markets. The Secretary, or a designee, shall publicly announce the repayment levels for each color and class of honey on a weekly basis. Interest shall not be assessed on price support loans which are repaid at the lower repayment level announced by the Secretary or his designee.

Honey pledged as collateral for a price support loan which is redeemed at the lower repayment level shall not be eligible to be pledged as collateral for a new price support loan.

Signed at Washington, DC, on May 25, 1988.

Milton Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 88-12255 Filed 5-31-88; 8:45 am]

BILLING CODE 3410-05-M

Federal Grain Inspection Service

Designation Renewal of the Sioux City (IA) Agency

AGENCY: Federal Grain Inspection Service (Service).

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of the Sioux City Inspection and Weighing Agency, Inc. (Sioux City) as an official agency responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act).

EFFECTIVE DATE: July 1, 1988.

ADDRESS: James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service announced that Sioux City's designation terminates on June 30, 1988, and requested applications for official agency designation to provide official services within specified geographic areas in the December 31, 1987, **Federal Register** (52 FR 49460). Applications were to be postmarked by January 29, 1988. Sioux City was the only applicant for designation and it applied for designation renewal in the entire area currently assigned to that agency.

The Service announced the applicant named in the March 1, 1988, **Federal Register** (53 FR 6167) and requested comments on the applicant's designation. Comments were to be postmarked by April 15, 1988; none was received.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and , in accordance with section 7(f)(1)(B), determined that Sioux City is able to provide official services in the geographic area for which the Service is renewing its designation. Effective July 1, 1988, and terminating June 30, 1991, Sioux City will provide official inspection services in its specified geographic area, previously described in the December 31 **Federal Register**.

Interested persons may obtain official services by contacting the agency at the following telephone number: (712) 255-8073.

(Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*))

Dated: May 26, 1988.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 88-12270 Filed 5-31-88; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicant in the Geographic Area Currently Assigned to the Lousiville (KY), Minot (ND), and Tri-State (OH) Agencies

AGENCY: Federal Grain Inspection Service (Service).

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the geographic area currently assigned to Louisville Grain Inspection Services, Inc. (Louisville), Minot Grain Inspection, Inc. (Minot), and Tri-State Grain Inspection Service, Inc. (Tri-State).

DATE: Comments to be postmarked on or before July 18, 1988.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., RM, FGIS, USDA, Room 0628 South Building, P.O. Box 96454, Washington, DC 20090-6454.

Telemail users may respond to [LLEBAKKEN/FGIS/USDA] telemail.

Telex users may respond as follows:
TO: Lewis Lebakken
TLX: 7607351, ANS:FGIS UC.

All comments received wil be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Bebakken, Jr., telephone (202) 475-3428.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within specified geographic areas in the March 31, 1988, **Federal Register** (53 FR 10411). Applications were to be postmarked by May 2, 1988. Louisville and Tri-State were the only applicants for designation and each applied for designation renewal in the entire area currently assigned to that agency. There were two applicants for the Minot designation. Minot applied for designation renewal in the entire area currently assigned to that agency, except for Farmers Elevator Company, Bottineau, Bottineau County; and Farmers Union, Rugby, Pierce County. Grand Forks Grain Inspection Department, a neighboring official agency, in whose territory these two grain elevator facilities are located, applied for designation only for those two points.

This notice provides interested persons the opportunity to present their comments concerning the applicants'

designation. Commenters are encouraged to submit reasons for support or objection to this designation action and include pertinent data to support their views and comments. All comments must be submitted to the Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

(Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: May 26, 1988.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 88–12271 Filed 5–31–88; 8:45 am]

BILLING CODE 3410–EN–M

Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to the Idaho (ID) and Lewiston (ID) Agencies, and the State of Utah (UT)

AGENCY: Federal Grain Inspection Service (Service).

ACTION: Notice

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of three agencies will terminate, in accordance with the Act, and requests applications from parties interested in being designated as the official agency to provide official services in the geographic area currently assigned to the specified agencies. The official agencies are Idaho Grain Inspection Service (Idaho), Lewiston Grain Inspection Service, Inc. (Lewiston), and Utah Department of Agriculture (Utah).

DATE: Applications to be postmarked on or before July 1, 1988.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Idaho, located at U.S. Highway 30 West, Pocatello, ID 83201; Lewiston, located at 1450 3rd Avenue North, Lewiston, ID 83501; and Utah, located at 350 North Redwood Road, Salt Lake City, UT 84116; were each designated under the Act as an official agency to provide inspection functions on December 1, 1985.

Each official agency's designation terminates on November 30, 1988. Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Idaho, in the State of Idaho, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows: The southern half of the State of Idaho up to the northern boundaries of Adams, Valley, and Lemhi Counties.

The geographic area presently assigned to Lewiston, in the State of Idaho, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows: The northern half of the State of Idaho down to the northern boundaries of Adams, Valley, and Lemhi Counties.

The geographic area presently assigned to Utah, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is the entire State of Utah.

Interested parties, including Idaho, Lewiston, and Utah, are hereby given opportunity to apply for official agency designation to provide the official services in each geographic area, as specified above, under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in each specified geographic area is for the period beginning December 1, 1988, and ending November 30, 1991. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: May 26, 1988.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 88–12272 Filed 5–31–88; 8:45 am]

BILLING CODE 3410–EN–M

Forest Service

Doe Ridge Golf Course; Environmental Impact Statement; Inyo National Forest; CA and NV

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 the proposed Doe Ridge Golf Course development within the Mammoth Range District

A range of alternatives for this development will be considered. One of these will be non-development of a golf course. Other alternatives will consider a variety of golf course designs.

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. Much of the scoping process was conducted as a part of the previously prepared draft environmental assessment. The scoping 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 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.

Dennis W. Martin, Inyo National Forest Supervisor, is the responsible official.

The analysis is expected to take only two months due to the previous work

accomplished as a part of the draft environmental assessment. The environmental impact statement is expected to be filed with the Environmental Protection Agency and to be available for review by July 15, 1988. At that time EPA will publish a notice of availability of the DEIS in the Federal Register. The comment period on the 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 January 1989.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and environmental impact statement should be directed to Dean McAlister, District Ranger, Mammoth Ranger District, Inyo National Forest, phone 208–634–8151.

Dated: May 20, 1988.

Dean J. McAlister,

District Ranger, Mammoth Range District, Inyo National Forest.

[FR Doc. 88–12218 Filed 5–31–88; 8:45 am]

BILLING CODE 3410–11–M

Lightning Peak Mine; Environmental Impact Statement; Payette National Forest, ID

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 a proposal to develop the Lightning Peak Mine on the Krassel Ranger District, Payette National Forest, Valley County, Idaho. The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be received by June 16, 1988.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Earl Kimball, District Ranger, Krassel Ranger District, P.O. Box 1026, McCall, ID 83638 with a "Reply to Lightning Peak" written on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement to Barry Stata, Payetee Supervisors Office, P.O. Box 1026, McCall, ID 83638, phone 208–634–8151.

SUPPLEMENTARY INFORMATION: Coeur-Thunder Mountain, Inc. of Boise, Idaho, a subsidiary of Coeur d'Alene Mines Corporation of Coeur d'Alene, Idaho has submitted a proposed operating plan which involves an open-pit mine, waste rock dump, and haul road on National Forest System lands. The proposed project would involve surface mining of approximately 13 to 15 acres near Lightning Peak. Mining would be conducted by conventional drill, blast, load, and haul techniques. Based on currently available information, approximately 750,000 to 1,000,000 tons of ore would be mined. The anticipated waste quantity will approximate 1,900,000 to 2,200,000 tons. The waste dump is expected to occupy approximately 15 to 17 acres. The Lightning Peak haul road would disturb approximately 9 acres. The entire proposal would occur immediately adjacant to the existing mining/processing facilities constructed on patented claims for Coeur's Sunnyside Project in the Thunder Mountain Mining District approximately 90 miles northeast of Cascade, Idaho, the county seat of Valley County.

A range of alternatives and mitigation measures will be considered to evaluate and minimize adverse impacts on National Forest System surface resources. The selected alternative must protect the statutory right of the operator to develop the mineral resource within reasonable environmental constraints.

Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. All previous comments received during the initial scoping period which ended March 7, 1988 will be retained in the record and therefore it will not be necessary to respond again. The Forest Service is now seeking any additional comments which may assist the scoping process including:

1. Further identifying potential issues.
2. Further identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmetal effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

The Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the potential activity site.

Veto J. LaSalle, Forest Supervisor, Payettee National Forest, McCall, Idaho, is the responsible official.

The analysis is expected to take 6 months. The draft environmental impact statement should be available for public review by November 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 Environmental Protection Agency's notice of availability appears in the Federal Register. The final environmental impact statement is scheduled to be completed by February 1989.

Dated: May 23, 1988.

Veto J. LaSalle,

Forest Supervisor.

[FR Doc. 88–12219 Filed 5–31–88; 8:45 am]

BILLING CODE 3410–11–M

Packers and Stockyards Administration

Deposting of Stockyards; Louisiana Horse Palace, Inc., et al.

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
LA–139—Louisiana Horse Palace, Inc., Elm Grove, LA.	Dec. 13, 1980.
MI–112—Coopersville Livestock Sale, Coopersville, MI.	Apr. 29, 1959.
NB–128—Ewing Livestock Market, Ewing, NE.	Jan. 25, 1950.
NJ–106—Community Livestock Auction Co., Inc., Woodstown, NJ.	Dec. 21, 1959.
OH–148—The Ambrosia Coal and Construction Co., Elkton, OH.	June 29, 1983.
PA–112–G&M Livestock Market, Duncansville, PA.	Dec. 3, 1959.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register**. This notice shall become effective upon publication in the **Federal Register**.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, DC, this 24th day of May, 1988.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 88-12165 Filed 5-31-88; 8:45 am]

BILLING CODE 3210-KD-M

Posted Stockyards; Pacific Livestock Auction, et al.

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on respective dates specified below.

Facility No., name, and location of stockyard	Date of posting
AZ-114—Pacific Livestock Auction, Chandler, AZ.	Nov. 25, 1986.
CA-180—Golden Valley Ranch, Bakersfield, CA.	Jan. 11, 1988.
GA-196—Sunny Farm Stables, Cumming, GA.	Nov. 19, 1987
GA-198—Barrett Livestock Barn, Alto, GA.	Feb. 20, 1988.
GA-199—Circle M Stables Corp., Forsyth, GA.	Feb. 6, 1988.
GA-200—Pony Express Stock Yards, Covington, GA.	Mar. 12, 1988.
MN-183—Auction Center Livestock, Frazee, MN.	May 1, 1987
MN-184—Northern Minnesota Cattle Yards, Hines, MN.	Mar. 9, 1988.
MS-163—Peoples Livestock Auction, Houston, MS.	Feb. 6, 1988.
MO-266—MFA Farmers Livestock Market, Maryville, MO.	Mar 12, 1988.
NC-159—Stegall's Livestock and Auction Barn, Concord, NC.	apr 8, 1988.
SC-143—Walterboro Horse Auction, Inc., Walterboro, SC.	Feb. 1, 1988.
SD-169—Alexandria Livestock Market, Inc., Alexandria, SD.	Sept. 3, 1987
TX-333—Erath County Sales & Livestock Commission, Stephenville, TX.	Sept. 3, 1987
TX-334—Ellis County Livestock, Inc., Waxahachie, TX.	Nov. 8, 1987
VA-157—Springlake Livestock Market, Inc., Moneta, VA.	Dec. 1, 1987

Done at Washington, DC, this 24th day of May, 1988.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 88-12166 Filed 5-31-88; 8:45 am]

BILLING CODE 3410-KD-M

ARMS CONTROL AND DISARMAMENT AGENCY

The President's General Advisory Committee on Arms Control and Disarmament; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following Presidential Committee meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: June 15, 1988.

Time: 8:30 a.m.

Place: State Department Building, Washington, DC

Type of Meeting: Closed.

Contact: Colonel William C. Golbitz, General Advisory Committee on Arms Control and Disarmament, Room 5927, Washington, DC 20451. (202) 647-5178.

Purpose of Advisory U.S. Committee: To advise the Director of the Arms Control and Disarmament Agency on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.

Agenda: The Committee will review specific arms control and related treaty issues; an Executive session will be held.

Reason for Closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.

Authority to Close Meeting: The closing of this meeting is in accordance with a determination by the Director of the Arms Control and Disarmament Agency dated April 27, 1988, made pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act as amended.

William J. Montgomery,

Committee Management.

[FR Doc. 88-10184 Filed 5-31-88; 8:45 am]

BILLING CODE 6820-32-M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review; Belgium et al.

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.53a or §355.10 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than June 30, 1988, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in June for the following periods:

	Period
ANTIDUMPING DUTY PROCEEDING	
Belgium: Sugar (A-423-077)	06/01/87-05/31/88
Canada: Red Raspberries (A-122-401)	06/01/87-05/31/88
Canada: Oil Country Tubular Goods (A-122-506)	06/01/87-05/31/88
Federal Republic of Germany: Precipitated Barium Carbonate (A-428-061)	06/01/87-05/31/88
Federal Republic of Germany: Sugar (A-428-082)	06/01/87-05/31/88
France: Large Power Transformers (A-427-030)	06/01/87-05/31/88
France: Sugar (A-427-078)	06/01/87-05/31/88
Italy: Large Power Transformers (A-475-031)	06/01/87-05/31/88
Italy: Viscose Rayon Staple Fiber (A-475-079)	06/01/87-05/31/88
Japan: 64K DRAMS (A-588-503)	06/01/87-05/31/88
Japan: Fishnetting of Man-Made Fiber (A-588-029)	06/01/87-05/31/88
Japan: Large Power Transformers (A-588-032)	06/01/87-05/31/88
Mexico: Elemental Sulphur (A-201-034)	06/01/87-05/31/88
People's Republic of Hungary: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished (A-437-601)	02/06/87-05/31/88
People's Repbulic of China: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished (A-570-601)	02/06/87-05/31/88

	Period
Socialist Republic of Romania: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished (A-485-602)	11/07/86-05/31/88
Sweden: Stainless Steel Plate (A-401-040)	06/01/87-05/31/88
Taiwan: Bicycle Tires and Tubes (A-583-401)	06/01/87-09/04/87
Taiwan: Carbon Steel Plate (A-583-080)	06/01/87-05/31/88
Taiwan: Fireplace Mesh Panels (A-583-003)	05/01/87-04/30/88
Taiwan: Oil Country Tubular Goods (A-583-505)	01/06/87-05/31/88
Taiwan: Polyvinyl Chloride Sheet and Film (A-538-081)	06/01/87-05/31/88
COUNTERVAILING DUTY PROCEEDING	
Canada: Oil Country Tubular Goods (C-122-505)	01/01/87-12/31/87
France: Industrial Nitrocellulose (C-427-016)	01/01/86-04/28/88
Mexico: Carbon Black (C-201-012)	01/01/87-12/31/87

Seven copies of the request should be submitted to the Acting Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by June 30, 1988.

If the Department does not receive by June 30, 1988 a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: May 25, 1988.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-12249 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-DS-M

Boston University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 87-104R. Applicant: Boston University, Boston, MA 02215. Instrument: Rapid Kinetics Accessory for UV-Visible Spectrophotometer, Model SFA-11. Manufacturer: Hi-Tech Scientific, United Kingdom. Intended Use: See notice at 52 FR 7916, March 13, 1987.

Comment: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (November 24, 1986).

Reasons: The foreign article directly delivers mixed reagent solutions to the observation cell of an existing spectrophotometer. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value of the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-12237 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Accessories for Foreign Instrument; Department of Commerce

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 88-096. Applicant: U.S. Department of Commerce, NOAA, Woods Hole, MA 02543 Instrument: Height/Temperature Sensor, Model S40-HJ60-T303. Manufacturer: SCANMAR, Norway. Intended Use: See notice at 53 FR 9958, March 28, 1988.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer.

We know of no domestic accessory which can be readily adapted to the instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-12247 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-DS-M

Mount Sinai School of Medicine, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86-202R. Applicant: Mount Sinai School of Medicine, New York, NY 10029. Instrument: Laser Microprobe Mass Analyzer. Manufacturer: Leybold-Heraeus GmbH, West Germany. Intended Use: See notice at 52 FR 2250, January 21, 1987.

Reasons for this Decision: The foreign instrument provides a lateral resolution of 1.0 micron, elemental detection limits in the range of 1.0 part per million, and unequivocal identification of the cell under analysis. Advice submitted by: National Institutes of Health, March 29, 1988.

Docket Number: 88-004. Applicant: The Children's Surgical Foundation, Inc., Chicago, IL 60614. Instrument: Cryo-Microtome, Model LKB 2250-041, with accessories. Manufacturer: PWV, Palmstiernas Mekaniska Verkstad, Sweden. Intended Use: See notice at 52 FR 43219, November 10, 1987.

Reasons for this Decision: The foreign instrument can produce uniform sections as large as 450 × 150 mm through both hard and soft tissue. Advice submitted by: National Institutes of Health, March 29, 1988.

Docket Number: 88-006. Applicant: Pennsylvania State University, University Park, PA 16802. Instrument: Mass Spectrometer, Model MS50TC. Manufacturer: Kratos Scientific

Instruments, United Kingdom. Intended Use: See notice at 52 FR 43219, November 10, 1987.

Reasons for this Decision: The foreign instrument provides: (1) Resolution to 150 000, (2) mass range to 10 000, (3) scan speed to 0.1 second per decade, and (4) FAB capability. Advice submitted by: National Institutes of Health, March 29, 1988.

Docket Number: 88–054. Applicant: The University of Texas Medical Branch, Galveston, TX 77550. Instrument: Inductively Coupled Plasma/Mass Spectrometer, Model VG PlasmaQuad. Manufacturer: VG Instruments, United Kingdom. Intended Use: See notice at 53 FR 1811, January 22, 1988.

Reasons for this Decision: The foreign instrument provides an inductively-coupled plasma ionization source with detection limits to 0.1 nanogram per millimeter. Advice submitted by: National Institutes of Health, March 29, 1988.

Docket Number: 88–062. Applicant: University of Alabama, Mobile, AL 36688. Instrument: GC/Mass Spectrometer Data System, Model MM70–250. Manufacturer: VG Analytical, United Kingdom. Intended Use: See notice at 53 FR 1811, January 22, 1988.

Reasons for this Decision: The foreign instrument provides: (1) Resolution to 50 000, (2) mass range to 11 000 at 3 kV accelerating potential, and (3) scan speed of 0.1 second per decade. Advice submitted by: National Institutes of Health, March 29, 1988.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The National Institutes of Health advise that: (1) The capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88–12239 Filed 5–31–88; 8:45 am]

BILLING CODE 3510–DS–M

Southern Research Institute, et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constituion Avenue NW., Washington, DC.

Docket Number: 88–075. Applicant: Southern Research Institute, Birmingham, AL 35255–5305. Instrument: Electron Microscope, Model H–600–3. Manufacturer: Hitachi, Japan. Intended use: See notice at 53 FR 8483, March 15, 1988. Instrument ordered: July 1, 1987.

Docket Number: 88–089. Applicant: Florida Department of Agriculture and Consumer Services, Kissimmee, FL 32742. Instrument: Electron Microscope, Model EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 53 FR 6028, February 29, 1988. Instrument ordered: November 9, 1987.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, is being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or nay other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88–12248 Filed 5–31–88; 8:45 am]

BILLING CODE 3510–DS–M

University of Alaska, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 87–261R. Applicant: University of Alaska, Fairbanks, AK 99775–1260. Instrument: JEFRI High Pressure Recombination Apparatus and High Temperature High Pressure Miscibility Apparatus. Manufacturer: D.B. Robinson & Associates, Canada. Intended use: See notice at 52 FR 32824, August 31, 1987.

Reasons for this Decision: The foreign instrument permits direct observation of cell contents allowing visual determinatins of phase conditions and provides an isolation piston permitting the use of various displacement fluids.

Docket Number: 87–263R. Applicant: University of Alaska, Fairbanks, AK 99775. Instrument: Phase Behavior PVT System. Manufacturer: D.B. Robinson & Associates, Canada. Intended use: See notice at 52 FR 32824, August 31, 1987.

Reasons for this Decision: The foreign instrument provides a maximum operating pressure of 10,000 psi (70 MPa), temperature to 400 °F (200 °C) and interior cell volume free of pressure distortion permitting accurate density measurements without having to calibrate cell volume of different pressures.

Docket Nunber: 88–087. Applicant: Iowa State University, Ames, IA 50011. Instrument: FT–IR Spectrometer, Model IFS 120 HR. Manufacturer: Bruker Analytische Messtechnik GmbH, West Germany. Intended use: See notice at 53 FR 6028, February 29, 1988.

Reasons for this Decision: The foreign instrument provides an unapodized resolution of 0.002 cm^{-1}.

Docket Number: 88–097. Applicant: Kansas State University, Manhattan, KS 66506. Instrument: Fourier Transform Interferometric Spectrophotometer System, Model D A2. Manufacturer: BOMEM, Canada. Intended use: See notice at 53 FR 9958, March 28, 1988.

Reasons for this Decision: The foreign article provides an unapodized resolution of 0.026 cm^{-1}.

Docket Number: 88–098. Applicant: The University of Texas at Dallas, Richardson, TX 75083–0688. Instrument: Mass Spectrometer, Model MAT 261V. Manufacturer: Finningan MAT GmbH, West Germany. Intended use: See notice at 53 FR 9958, March 28, 1988.

Reasons for this Decision: The foreign instrument provides automated multicollection and precise simultaneous analysis of data on small samples of Ph, Nd and Rb/Sn ratios.

Docket Number: 88–100. Applicant: USDA–ARS, Beckley, WV 25801–0867. Instrument: Root Length Scanner. Manufacturer: Hawker de Havilland

Victoria Limited Australia. Intended use: See notice at 53 FR 9959, March 28, 1988.

Reasons for this Decision: The foreign instrument is capable of measuring root size diameter from 0.1 to 2 mm on a root sample size of 0 to 155m with an accuracy of ±5% for 15 to 60m sample range.

Comments: none received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-12235 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-DS-M

University of Alaska, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 87-262R. Applicant: Unversity, Fairbanks, AK 99775-1260. Instruments: JEFRI High Pressure Recombination Apparatus and High Temperature High Pressure Miscibility Apparatus. Manufacturer: D.B. Robinson, Canada. Intended use: See notice at 52 FR 32824, August 31, 1987.

Reasons for this Decision: The foreign article provides a guaranteed operating temperature range to 400°F and constant pressure mode of injection.

Docket Number: 88-024R. Applicant: Virginia Polytechnic Institute and State University, Blacksburg, VA 24061. Instrument: FTIR Interferometer, Model DA3.16. Manufacturers: Bomem, Canada. Intended use: See notice at 52 FR 46639, December 9, 1987.

Reasons for this Decision: The foreign instrument provides an unapodized resolution of $0.002cm^{-1}$.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-12236 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-DS-M

University of California—Riverside, et al.; Consolidated Decision on Applications for Duty-Free Entry of Accessories for Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 88-023. Applicant: The Regents of University of California, Riverside, CA 92521. Instruments: Accessories for Mass Spectrometer. Manufacturer: Vacuum Generators Micromass, United Kingdom. Intended use: See notice at 52 FR 46639, December 9, 1987.

Docket Number: 88-029. Applicant: University of Southwestern Louisiana, Lafayette, LA 70504. Instrument: Scanning Attachment for H-600 Electron Microscope, Model H-6010. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: See notice at 52 FR 46813, December 10, 1987.

Docket Number: 88-080. Applicant: Texas A & M Research Foundation, College Station, TX 77843-3578. Instrument: Multi-Mixing Stopped-Flow Attachment and Anaerobic Kit. Manufacturer: Hi-Tech Scientific Ltd., United Kingdom. Intended use: See notice at 53 FR 4867, February 18, 1988.

Advice Submitted by: The National Institutes of Health, May 3, 1988.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments, for the purposes for which the instruments are intended to be used, is being manufactured in the United States.

Reasons: These are compatible accessories for instruments previously imported for the use of the applicants. In each case, the instrument and accessory were made by the same manufacturer. NIH advises us that the accessories are pertinent to the intended uses and that it knows of no comparable domestic accessories.

We know of no domestic accessories which can be readily adapted to the previously imported instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-12246 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-DS-M

The University of Chicago, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 87-045R-2. Applicant: The University of Chicago, Chicago, IL 60637. Instrument: CD Spectropolarimeter, Model J-600A. Manufacturer: JASCO, Japan. Intended Use: See notice at 53 FR 1813, January 22, 1988. Reasons for This Decision: The foreign instrument provides: (1) A guaranteed noise figure of 0.3 millidegree RMS at 185 nanometers and (2) a time constant of 0.5 millisecond. Instrument Ordered: September 4, 1986.

Docket No. 88-074. Applicant: The University of Akron, Akron, OH 44325. Instrument: Rotating Anode X-Ray Generator System, Model RU-200H. Manufacturer: Rigaku Corporation, Japan. Intended Use: See notice at 53 FR 4886, February 18, 1988. Reasons for This Decision: The foreign instrument provides up to 12 kW output power and 12 kW of brilliance with a power density of $12kW/mm^2$. Instrument Ordered: September 25, 1987.

Comments: None received.

Decision: Approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, was being manufactured in the United States at the time the foreign instruments were ordered.

The capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and we know of no instrument or apparatus of equivalent scientific

value to either of the foreign instruments for the applicant's intended use which was being manufactured in the United States at the time the foreign instruments were order.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-12238 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-DS-M

University of Nevada, Reno, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW, Washington, DC.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket No. 87-245. Applicant: University of Nevada, Reno, NV 89557-0047. Instrument: Friction Hoist Test Rig. Manufacturer: Hattam Engineering Ltd., United Kingdom. Denial Without Prejudice to Resubmission: January 22, 1988.

Docket No. 87-266. Applicant: Williams College, Williamstown, MA 01267. Instrument: Rapid Kinetics Accessory, Model SFA-11. Manufacturer: Hi-Tech Scientific Instrument Division, United Kingdom. Denial Without Prejudice to Resubmission: December 9, 1987.

Docket No. 87-286. Applicant: Georgia Institute of Technology, Atlanta, GA 30332. Instrument: GDS Stress Path Triaxial Testing System. Manufacturer: GDS Instruments, Inc., United Kingdom. Denial Without Prejudice to Resubmission: December 7, 1987.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-12241 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-DS-M

University of Nevada School of Medicine, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 88-011. Applicant: University of Nevada School of Medicine, Reno, NV 89557. Instrument: Rapid Filtration Device, Model RFS-4. Manufacturer: BioLogic, France. Intended Use: See notice at 52 FR 43219, November 10, 1987. Reasons for This Decision: The foreign instrument provides microprocessor-controlled filtration in the millisecond range using small samples of membrane.

Docket No. 88-014. Applicant: Department of Commerce, National Bureau of Standards, Boulder, CO 80303. Instrument: Optical Streak Camera. Manufacturer: Hamamatsu Corp., Japan. Intended Use: See notice at 52 FR 46639, December 9, 1987. Reasons for This Decision: The foreign instrument provides temporal resolution of 2.0 picoseconds and S1 photo-emissive surface.

Docket No. 88-040. Applicant: New York University, New York City, NY 10003. Instrument: Stopped Flow Module, Model SFM-3. Manufacturer: BioLogic, France. Intended Use: See notice at 52 FR 48557, December 23, 1987. Reasons for This Decision: The foreign instrument is capable of mixing liquids from three different syringes in a broad range of volume ratios and provides a fluorescence dead time of 1.0 ms over a 0.8 mm path length for 13μl (volume).

Docket No. 88-046. Applicant: University of Iowa, Iowa City, IA 52242. Instrument: Stopped-Flow Module, Model SFM-3. Manufacturer: BioLogic, France. Intended Use: See notice at 52 FR 48851, December 28, 1988. Reasons for This Decision: The foreign instrument is capable of mixing liquids from three different syringes in a broad range of volume ratios and provides a fluorescence dead time of 1.0 ms over a 0.8 mm path legnth for 13μl (volume).

Docket No. 88-059. Applicant: Rutgers University, Piscataway, NJ 08854. Instrument: Preparative Quench and Stopped Flow Spectrometer, Model PQ/SF-53. Manufacturer: Hi-Tech Ltd., United Kingdom. Intended Use: See notice at 53 FR 1811, January 22, 1988. Reasons for This Decision: The foreign instrument provides stopped flow and rapid channel quench with an aging time from 0.5 ms to hours measured accurately to the ms.

Docket No. 88-091. Applicant: Brown University, Providence, RI 02912. Instrument: Preparative Quencher, Model PQ-53. Manufacturer: Hi-Tech Scientific, United Kingdom. Intended Use: See notice at 52 FR 6028, February 29, 1988. Reasons for This Decision: The foreign article is an accessary providing 0.5 ms to hours rapid chemical and freeze quench capabilities and are aging time from 0.5 ms up to hours.

Comments: None received.

Decision: Approved. Not instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The National Institutes of Health advise in its memoranda dated May 3, 1988, that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-12240 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-DS-M

University of Nevada-Reno; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86-186R. Applicant: University of Nevada, Reno, NV 98557. Instrument: Circular Dichroism Spectropolarimeter, Model J-500A with Accessories. Manufacturer: JASCO, Japan. Intended Use: See notice at 51 FR 16729, May 6, 1986.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being

manufactured in the United States at the time the instrument was ordered (April 25, 1986).

Reasons: The foreign instrument provides measurement of magnetic circular dichroism spectra.

The National Institutes of Health advises in its memoranda dated August 18, 1987, that (1) the capabilities is pertinent to the applicant's intended purposes and (2) it know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which was being manufactured in the United States at the time it was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-12242 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-DS-M

Texas Christian University; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 88-190. Applicant: Texas Christian University, Department of Physics, Box 32915, Fort Worth, TX 76129. Instrument: Fourier Transform Interferometer, Model DA3.16. Manufacturer: BOMEM, Canada. Intended Use: A wide range of studies in molecular and chemical physics, including ultraviolet, visible, near, mid-, and far infrared spectroscopy of free radicals and transient molecular species; infrared and far infrared spectroscopic characterization of petroleum, coals, tar sands, and oil shales; infrared and far infrared spectroscopy on sol-gel glasses and other amorphous materials; and infrared spectroscopy of collision induced effects on molecules. In addition, the instrument will be used by undergraduate and graduate students in their B.S., M.S., and Ph.D. degree programs in physics courses. Application Received by Commissioner of Customs: April 26, 1988.

Docket No. 88-191. Applicant: University of Massachusetts, Amherst, Department of Polymer Science and Engineering, Graduate Research Center, Amherst, MA 01003. Instrument: NMR Spectrometer, Model MSL-300. Manufacturer: Bruker Instruments, Inc., West Germany. Intended Use: The instrument will be used for pure scientific research in polymer science including studies in the areas: (1) Structure and morphology of the conducting polymer polyphenylene vinylene and (2) specific interactions responsible for miscibility in high performance polymer blends. The instrument will also be used for the education of graduate students in polymer science. Application Received by Commissioner of Customs: April 27, 1988.

Docket No. 88-192. Applicant: Children's Hospital Research Foundation, 700 Children's Drive, Columbus, OH 43205. Instrument: Isotope Ratio Mass Spectrometer, Model Delta E. Manufacturer: Finnigan MAT, West Germany. Intended Use: The instrument will serve as a focal point in research projects involving stable (non-radioactive) isotopes in infants, children, and adults, studies of carbohydrate absorption (^{13}C-labeled lactose), acetate production and oxidation, and carbon dioxide production in premature infants and in adult volunteers. Application Received by Commissioner of Customs: April 29, 1988.

Docket No. 88-193. Applicant: Tufts University School of Medicine, Department of Anatomy and Cell Biology, 136 Harrison Avenue, Boston, MA 02111. Instrument: Electron Microscope with Accessories, Model EM 902. Manufacturer: Carl Zeiss, West Germany. Intended Use: Studies of biological materials of all types. Research will encompass interests as varied as cell culture, in vitro studies, in vivo studies, molecular biology, cell biology, cell pathology, immunology, etc. Application Received by Commissioner of Customs: May 2, 1988.

Docket No. 88-194. Applicant: Utah State University, Purchasing Services, 1330 East 700 North, Logan, UT 84322-8300. Instrument: Rapid Kinetics Accessory and Stopped Flow Attachments for Spectrometer, Model SFA-11. Manufacturer: Hi-Tech Scientific, Ltd., United Kingdom. Intended Use: The instrument will be used for stopped-flow kinetics experiments using a custom-made detection system. Application Received by Commissioner of Customs: May 2, 1988.

Docket No. 88-195. Applicant: University of Nebraska, Department of Physics and Astronomy, Lincoln, NE 68588-0111. Instrument: Slevin Atomic Hydrogen Source. Manufacturer: Leisk Engineering Ltd., United Kingdom. Intended Use: The instrument will be used for studies of ionization of atomic hydrogen by proton impact. Experiments will consist of bombarding a jet of atomic hydrogen with a proton beam from the accelerator and measuring the energy and angular distribution of electrons produced in order to compare measured differential cross sections with those calculated theoretically. In addition, the instrument will be used for education purposes in the course Physics 999, Doctoral Dissertation. Application Received by Commissioner of Customs: May 2, 1988.

Docket No. 88-196 and 88-197. Applicant: The University of Tulsa, 600 South College Ave., Tulsa, OK 74104. Instrument: Scanning Electron Microscope, Model S-2300-2 and Electron Microscope, Model H-7000. Manufacturer: Hitachi, Japan. Intended Use: The instruments will be used for the study of a wide variety of research phenomena in the areas of morphology, immunology, genetics, cellular and molecular biology. In addition, the instrument will be used for educating undergraduate students, graduate students and faculty who have not utilized these techniques in the past in the entire spectrum of electron microscopy including preparation techniques, utilization of the scope, and then proper processing of the photographs obtained from the microscopes. Application Received by Commissioner of Customs: May 2 and 3, 1988.

Docket No. 88-198. Applicant: State University of New York at Buffalo, Department of Chemistry, Buffalo, NY 14214. Instrument: X-Ray Generator. Manufacturer: Rigaku, Japan. Intended Use: The instrument will be used in highly accurate diffraction studies of solid state materials including inorganic and organic superconductors. Application Received by Commissioner of Customs: May 11, 1988.

Docket No. 88-199. Applicant: Duke University Medical Center, Division of Pediatrics, Genetics and Metabolism, Box 3028, Durham, NC 27710. Instrument: Mass Spectrometer, Model MM70S. Manufacturer: VG Analytical,

Ltd., United Kingdom. Intended Use: The instrument is intended to be used for studies of human physiological fluids (urine, blood, cerebrospinal fluid, amniotic fluid), tissues (muscle, liver, heart, kidney), human cell cultures, synthetic biochemicals, natural compounds with biological activity and the products of chemical and biochemical reactions. The following major experiments will be conducted:

1. Qualitative and quantitative analysis of disease-specific acylcarnitines,
2. Qualitative and quantitative analysis of abnormal (disease specific) and normal organic acids,
3. Development of new enzyme assays and
4. Characterization of synthetic and natural organic compounds.

Application Received by Commissioner of Customs: May 11, 1988.

Frank W. Creel,

Director, Statutory Import Program Staff.

[FR Doc. 88-12243 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-DS-M

Vanderbilt University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm., in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 87-277. Applicant: Vanderbilt University, School of Medicine, Nashville, TN 37232. Instrument: Dental Implant System. Manufacturer: Nobelpharma, Sweden. Intended Use: See notice at 52 FR 32825, August 31, 1987. Reasons for this Decision: The foreign instrument optimizes geometric structure and titanium purity for success in osseointegration. Advice Submitted By: National Institutes of Health, March 15, 1988.

Docket No. 88-008. Applicant: University of Wisconsin-Madison, Madison, WI 53706. Instrument: Photometer. Manufacturer: Sigma Instruments GmbH, West Germany. Intended Use: See notice at 52 FR 43219, November 10, 1987. Reason for This Decision: The foreign instrument provides measurement of picomolar amounts of metabolite in one cell with two wavelengths and as sensitivity in the milliabsorbance unit range (0.001 AU). Advice Submitted by: National Institutes of Health, April 19, 1988.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The National Institutes of Health advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director Statutory Import Programs Staff.

[FR Doc. 88-12244 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-DS-M

Willis-Knighton Medical Center, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 88-005. Applicant: Willis-Knighton Medical Center, Shreveport, LA 71103. Intended Use: See notice at 52 FR 43219, November 10, 1987. Instrument Ordered: March 14, 1985.

Docket No. 88-056. Applicant: Scott and White Memorial Hospital, Temple, TX 76508. Intended Use: See notice at 53 FR 1811, January 22, 1988. Instrument Ordered: February 24, 1987.

Instrument: Extracorporeal Shock Wave Lithotripter (ESWL). Manufacturer: Dornier System GmbH, West Germany.

Comments: None received.

Decision: Approved. No Instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, was being manufactured in the United States at the time the instrument was ordered.

Reasons: There was no domestic manufacturer of lithotripters or of comparable devices capable of noninvasively pulverizing kidney stones.

Our consultants in the National Institutes of Health have advised us with respect to each application that there are no known domestic instruments now available which are equivalent to the Dornier ESWL.

We know of no equivalent instrument that is being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments for the purposes for which the instrument is intended to be used. (See also 52 FR 22512, June 12, 1987.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-12245 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-DS-M

National Technical Information Service

Intent to Grant Exclusive Patent License; Molecular Vaccines Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Molecular Vaccines Inc. having a place of business in New York, NY, an exclusive license in the United States and certain foreign countries to practice the invention entitled "Synthetic Peptides which Induce Cellular Immunity to the AIDS Virus and AIDS Viral Protein," U.S. Patent Application No. 6-947,935. The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 88-12214 Filed 5-31-88; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Restraint Limits for Certain Wool Textile Products Produced or Manufactured in Czechoslovakia

May 25, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: June 1, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854)

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION: A copy of the current Bilateral Textile Agreement between the Governments of the United States and the Czechoslovak Socialist Republic is available from the Textiles Division, Economic Bureau, U.S. Department of State, (202) 647–1998.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the *Correlation:* Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, dated December 11, 1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 25, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 25 and July 22, 1986 between the Governments of the United States and the Czechoslovak Socialist Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on June 1, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Categories 435 and 443, produced or manufactured in Czechoslovakia and exported during the twelve-month period which begins on June 1, 1988 and extends through May 31, 1989, in excess of the following levels of restraint:

Category	12-mo restraint limit
435	7,141 dozen.
443	73,452 numbers.

Imports charged to the category limits for the periods June 1, 1987 through May 31, 1988 for Category 435 and June 1, 1987 through December 31, 1987 and January 1, 1988 through May 31, 1988 for Category 443 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for those periods have been exhausted by the previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and the Czechoslovak Socialist Republic.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88–12200 Filed 5–31–88; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Use of Commercial Components in Military Equipment; Advisory Committee Meetings

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Use of Commercial Components in Military Equipment will meet in open session on June 16 at TRW, Fairfax, Virginia and on June 17, 1988 at the Defense Logistics Agency, Building 3, Commander's Conference Room, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will receive briefings from the private sector regarding their views.

Persons interested in giving a presentation should call Mr. Rich Mirsky, (703) 756–2340, to register their intention to present by June 3, 1988. Presenters should be prepared to leave a copy of their remarks and any visual aids, backup material, etc. with Mr. Mirsky at the time of the presentation. One copy is sufficient, but providing thirty copies will expedite getting material into the hands of the DSB Task Force members. Presentation should be limited to thirty minutes. An additional fifteen minutes will be allocated for questions and answers after the presentation.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

May 26, 1988.

[FR Doc. 88–12299 Filed 5–32–88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 13 and 14 June 1988.

Time of Meeting: 0830–1600 hours.

Place: The Society of American Engineers (S.A.M.E.), 607 Prince Street, Alexandria, VA.

Agenda: The Army Science Board Ad Hoc Subgroup on U.S. Army Belvoir Research, Development and Engineering Center effectiveness review will meet in a working session to assimilate information from panel members, discuss conclusions, and develop a draft report. Discussions will be held with a representative from the U.S. Army Laboratory Command concerning relationship with the Belvoir Research, Development and Engineering Center. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board

Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88–12302 Filed 5–31–88; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for Enlarging the Inner Channel At Canaveral Harbor; Brevard County, FL

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a Draft Environmental Impact State (DEIS).

SUMMARY: The Jacksonville District U.S. Army Corps of Engineers intends to prepare an Environmental Impact Statement on the feasibility of enlarging a portion of the entrance channel at Canaveral Harbor, Brevard County, Florida. The existing channel has a controlling depth of 35 feet m.l.w. In order for the port to accommodate larger ships with a deeper draft, the channels and the turning basin would need to be deepened.

The following alternatives are being considered:

a. No action.

b. Deepening the channel and turning basin.

Scoping has been accomplished by letter with those individuals and organizations that have expressed interest or are known to have an interest and by the solicitation of comments from affected Federal, State, and local agencies.

Consultation will be accomplished with the U.S. Fish and Wildlife Service and the National Marine Fisheries in accordance with Section 7 of the Endangered Species Act as well as the State Historic Preservation Officer in accordance with the Archeological and Historic Preservation Act. Discharges of materials into waters of the United States will be specified by application of the criteria of section 404(b) of the Federal Water Pollution Control Act or Section 103 of the Marine Protection, Research, and Sanctuaries Act.

The DEIS will be made available to the public upon completion.

Questions concerning the DEIS can be answered by: Mr. Rea Boothby, CESAJ–PD–ES, U.S. Army Corps of Engineers, Jacksonville District, P.O. Box 4970, Jacksonville, Florida 32232–0019, Telephone: (904) 791–3453.

Robert L. Herndon,

Colonel, Corps of Engineers, District Engineer.

Dated: May 19, 1988.

[FR Doc. 88–12228 Filed 5–31–88; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee Panel on Superconductivity will meet on June 22–23, 1988. The meeting will be held at the Center for Naval Analyses, Room 669, 4401 Ford Avenue, Alexandria, VA. The meeting will commence at 8:30 a.m. and terminate at 4:30 p.m. on June 22; and commence at 8:00 a.m. and terminate at 4:00 p.m. on June 23, 1988. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings for the panel members on benefits, barriers and strategies related to superconducting materials for naval applications. The agenda will include discussions on the naval consortium for superconductivity, propulsion, IR and magnetometer/gradeometer systems and materials research. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive Order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting contact: Commander L.W. Snyder, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5000, Telephone Number: (202) 696–4879.

Date: May 26, 1988

J.M. Virga,

Lieutenant, JAGC, U.S. Naval Reserve Alternate Federal Register Liaison Officer.

[FR Doc. 88–12274 Filed 5–31–88; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 88–27–NG]

CU Energy Marketing Inc.; Application To Export Natural Gas to Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application for Blanket Authorization to Export Natural Gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on May 5, 1988, of an application filed by CU Energy Marketing Inc. (CUEM) requesting blanket authorization to export up to 50 Bcf of natural gas to Canada on a short-term and spot basis over a two-year period beginning on the date of first delivery.

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 July 1, 1988.

FOR FURTHER INFORMATION:

Larine A. Moore, 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: CUEM, a Delaware corporation with its principal office in Calgary, Alberta, Canada, is a wholly-owned subsidiary of ATCOR Ltd. which, in turn, is a wholly-owned subsidiary of CU Enterprises Inc. ATCOR Ltd. is a direct marketer of natural gas to utilities and industrial consumers in Canada. CUEM proposes to resell the gas on its own behalf to Canadian purchasers or to act as an agent on behalf of these purchases. The gas would be supplied from a variety of domestic sources.

The terms of each arrangement would be negotiated in response to market conditions. CUEM intends to use existing transmission systems and would not require the construction of

new or separate facilities in order to export the natural gas. CUEM also intends to comply with ERA's reporting requirements.

This export application will be reviewed pursuant to Section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order No. 0204–111. The decision on whether this export of natural gas is in the public interest will be based upon the domestic need for the gas and other matters deemed to be appropriate by the Administrator, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing parties to freely negotiate their own trade arrangements. The applicant asserts that current excess gas supplies evidence a lack of need for this gas to serve regional and national markets. The applicant further asserts that this export arrangement would promote competition and have a beneficial impact on the balance of trade. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that if the ERA approves this export it may permit the export of the gas at any existing point of exit and through any existing transmission system.

CUEM requests that an authorization be granted on an expedited basis. An ERA decision on CUEM's request for expedited treatment will not be made until all responses to this notice have been received and evaluated.

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 take 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., July 1, 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 CUEM's application is available for inspection and copying in the Natural Gas Division Docket Room GA–076 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 24, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–12175 Filed 5–31–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER88–283–000 et al.]

Gulf Power Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Gulf Power Company

[Docket No. ER88–283–000]

May 23, 1988.

Take notice that on May 18, 1988, Gulf Power Company tendered for filing a response to the Commission staff's April 18, 1988 deficiency letter regarding Gulf Power's March 7, 1988 filing of a transmission service agreement between Gulf Power and Bay Resource Management, Inc. (BRMI). The response includes an interconnection agreement between Gulf Power and BRMI referred to in the transmission service agreement, as well as certain additional information and explanation of the transmission service agreement.

Comment date: June 6, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Empire Energy-HRD Cogeneration, Inc.

[Docket No. QF88–378–000]

May 23, 1988.

On May 10, 1988, Empire Energy-HRD Cogeneration, Inc. (Applicant), of 2548 Vestal Parkway East, P.O. Box 797, Vestal, New York, 13851–0797, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located on the site of the existing Harrison Radiator Division of General Motors Corporation in the Town of Lockport, New York. The facility will consist of three combustion turbine generators, three heat recovery steam generators (HRSG's) and one condensing steam turbine generator. The thermal output of the facility, in the form of steam, will be used by the Harrison Radiator Division for process use and space heating. The primary energy source will be natural gas. The electric power production capacity of the facility will be 155.8 MW. The facility is expected to be operational in the third quarter of 1990.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

3. Catalyst Old River Limited Partnership

[Docket No. ES88-37-000]

May 25, 1988.

Take notice that on May 12, 1988, Catalyst Old River Limited Partnership filed with the Commission an application to undertake construction financing for the Old River Hydroelectric Project. The construction loan in the amount of not more than $375 million will be applied solely to finance the construction of the hydroelectic project previously licensed by the Federal Energy Regulatory Commission as Project No. 2854. The construction loan will have a maturity date of December 31, 1990.

Comment date: June 9, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. The Cheshire Medical Center

[Docket No. QF88-377-000]

May 25, 1988.

On May 10, 1988, The Cheshire Medical Center (Applicant), of 580 Court Street, Keene, New Hampshire 03431, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Keene, New Hampshire and will consist of a reciprocating engine generator and a heat recovery steam generator. Thermal energy recovered from the facility will be used for domestic hot water production, space heating, laundry processing and sterlization. The net electric power production capacity of the facility will be 620 kw. The primary source of energy will be No. 2 fuel oil. The facility is expected to begin operation in December, 1988.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-12257 Filed 5-31-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-28-002 et al.]

Texas Eastern Transmission Company et al; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Texas Eastern Transmission Corporation

[Docket No. CP87-28-002, et al.]

May 23, 1988.

Take notice that on May 18, 1988, Texas Eastern Transmission Corporation (Applicant), Post Office Box 2521, Houston, Texas 77252, filed in Docket No. CP87-28-002 an amendment to its original application filed on October 16, 1986 in Docket No. CP87-28-000, pursuant to section 7(b) and 7(c) of the Natural Gas Act, to reflect a revision in the cost of facilities to be constructed and operated and rates for which authorization is requested, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that, in the original application, Applicant sought authorization to render a firm storage delivery and transportation service to Consolidated Edison Company of New York, Inc. and to construct and operate certain pipeline facilities in Pennsylvania which would be required to render such service. Applicant further states that it had intended to commence construction activities in order to render the firm delivery service commencing with the 1987-88 winter season. Applicant submits that such service is now proposed to commence November 1, 1988.

Applicant indicated that the total capital cost of the pipeline facilities which Applicant originally proposed was estimated at $13,438,000.

Applicant requests that the original application be amended to reflect minor changes in the proposed facilities cost and a revision to the rates previously proposed. Applicant requests that the original application be amended to reflect a revised estimated total capital cost of $14, 211,000. Applicant indicates that the increase of $773,000 in the estimated facilities cost represent a minor change of approximately 5.8 percent. The revised estimated total capital cost is shown in revised Exhibit K to the amended application. Applicant states that it is not proposing any changes in the facilities for which authorization has been requested but is merely seeking to supplement the original filing to reflect increased facilities cost estimates.

Applicant requests that the original application be amended to reflect the changes in the rates Applicant would charge for the proposed services. Applicant estimates that the revised firm demand charge would be $8.37 per dt which represents a reduction of $1.67 per dt from the estimated firm demand charge in the original application. Applicant states that the revised rates are attached in Exhibit P of the amended application.

Applicant states that, in addition to the proposed revision to facility, the cost of service and rates proposed reflect:

1. An updated cost of service for existing SS-II facilities from Applicant's recent rate case filing in Docket No. RP88-67.

2. Income taxes in accordance with the Tax Reform Act of 1986.

3. Depreciation rates of 2.9 percent for transmission plant and 4.4 percent for general plant.

4. Rate base investment using beginning balances for gas plant and accumulated deferred income taxes.

Comment date: June 6, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Company

[Docket No. CP88-389-000]

May 25, 1988.

Take notice that on May 12, 1988, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-389-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas on behalf of LTV Steel Company, Inc. (LTV), under the authorization issued in Docket No. CP87-115-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee would perform the proposed interruptible transportation service for LTV, an industrial end-user, pursuant to a gas transportation agreement dated February 5, 1988, as amended February 10, 1988. The term of the transportation agreement is from the date of execution and would remain in

full force and effect for a term of one year and month to month thereafter and may be terminated by either party upon 30 days written notice. Tennessee proposes to transport on a peak day 21,000 dekatherm; on an average day 470 dekatherm; and on an annual basis 171,550 dekatherm of natural gas for LTV. Tennessee proposes to receive the subject gas from various existing points of receipt on its system in Texas, Louisiana, Mississippi, Alabama, New York, Kentucky, Pennsylvania, and Offshore Louisiana. Tennessee would then transport and redeliver the subject gas to points of delivery in West Virginia, New York, Ohio, Pennsylvania Massachusetts, and Louisiana. The location of the ultimate delivery point of the gas is Ohio.

Tennessee states that it would perform such transportation for LTV pursuant to its Rate Schedule IT. Tennessee would charge the legally effective GRI fund unit where applicable. It is stated that LTV would compensate Tennessee for fuel and losses associated with the transportation service in accordance with the IT Rate Schedule.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.233(a)(1) of the Commission's regulations. Tennessee commenced such self-implementing service on April 13, 1988, as reported in Docket No. ST88–3513–000.

Comment date: July 11, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No CP88–390–000]

May 25, 1988.

Take notice that on May 12, 1988, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88–390–000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP87–115–000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes to transport natural gas for Intercon Gas, Inc. Intercon). Tennessee explains that service commenced April 9, 1988 under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88–3521. Tennessee further explains that the peak day quantity would be 500,000 dekatherms, the average daily quantity would be 5,955 dekatherms, and that the annual quantity would be 2,173,575 dekatherms. Tennessee explains that it would receive natural gas for Intercon's account in the states of Louisiana, Kentucky, Texas, Mississippi, West Virginia Alabama, Tennessee and Offshore Louisiana. Tennessee states that the points of delivery are located in the states of Alabama, Tennessee, Mississippi, and West Virginia. Tennessee further explains that locations of the ultimate delivery point of the gas are in the states of Indiana, Iowa, Ohio, Virginia, Illinois, Kentucky, Michigan, Wisconsin, Tennessee, Pennsylvania, Massachusetts, Maryland, West Virginia, New Hampshire, Texas, Arkansas, Louisiana, South Carolina, Georgia, Delaware, Connecticut, Rhode Island, New York, Washington, DC and New Jersey.

Comment date: July 11, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Company

[Docket No. CP88–395–000]

May 25, 1988.

Take notice that on May 16, 1988, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511 Houston, Texas 77252 filed in Docket No. CP88–395–000 a request pursuant to § 284.223 the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP87–115–000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes to transport natural gas for Tejas Power Corporation (Tejas). Tennessee explains that service commenced April 6, 1988 under Section 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88–3517. Tennessee further explains that the peak day quantity would be 75,000 dekatherms, the average daily quantity would be 9,500 dekatherms, and that the annual quantity would be 3,467,500 dekatherms. Tennessee explains that it would receive natural gas for Tejas' account in the states of Louisiana, Texas, and Offshore Texas and Louisiana. Tennessee states that the points of delivery are located in the states of Alabama, Tennessee, Mississippi, and West Virginia. Tennessee further explains that locations of the ultimate delivery point of the gas are in the states of Ohio, Virginia, Tennessee, Pennsylvania, Massachusetts, Maryland, West Virginia, Louisiana, Georgia, New York, Alabama, Mississippi, New Jersey, and Connecticut.

Comment date: July 11, 1988, in accordance with Standard Paragraph G 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 designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

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 Section 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 therefor, 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. 88-12258 Filed 5-31-88; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 9534-001 et al.]

Big Sky Limited Partnership, et al.; Surrender of Preliminary Permits and Exemptions

May 25, 1988.

Take notice that the following preliminary permits/exemptions have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Big Sky Limited Partnership

[Project No. 9534-001]

Take notice that Big Sky Limited Partnership, Permittee for the Willow Creek Project No. 9534, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 9534 was issued April 14, 1986, and would have expired March 31, 1989. The project would have been located on Willow Creek in Madison County, Montana.

The Permittee filed the request on April 26, 1988.

2. Big Sky Limited Partnership; Montana

[Project No. 9537-001]

Take notice that Big Sky Limited Partnership, Permittee for the Ruby River Project No. 9537, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 9537 was issued April 9, 1986, and would have expired March 31, 1989. The project would have been located on the Ruby River in Madison County, Montana.

The Permittee filed the request on April 26, 1988.

3. Tongue River Limited Partnership; Montana

[Project No. 9536-002]

Take notice that Tongue River Limited Partnership, Permittee for the Tongue River Project No. 9536, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 9536 was issued April 1, 1986, and would have expired March 31, 1989. The project would have been located on the Tongue River in Big Horn County, Montana.

The Permittee filed the request on April 26, 1988.

Standard Paragraph

I. The preliminary permit/exemption shall remain in effect through the thirtieth day issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-12259 Filed 5-31-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-595-001]

Diamond Shamrock Offshore Partners Limited Partnership; Application for Extension of a Blanket Limited-Term Certificate With Pregranted Abandonment

May 26, 1988.

Take notice that on May 11, 1988, Diamond Shamrock Offshore Partners Limited Partnership (Applicant) of 717 North Harwood Street, Dallas, Texas 75201, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and Parts 154 and 157 of the Commission's Regulations requesting extension of its blanket limited-term certificate with pregranted abandonment which expires August 4, 1988, for an unlimited term. Applicant's certificate authorizes the sale of previously uncommitted gas from Block 700, Matagorda Island Area, Offshore Texas. The application is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will 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 in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-12261 Filed 5-31-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-174-000]

Dynasty Gas Marketing, Inc., Complainant; v. Northern Border Pipeline Co., Respondent; Complaint

May 25, 1988.

Take notice that on May 16, 1988, Dynasty Marketing Inc. (Dynasty) of 4800 Sugar Blvd., Suite 290, Stafford, Texas 77477, filed a complaint [1] in the above-referenced proceeding which challenges Northern Border Pipeline Company's (Northern Border) creditworthiness requirements for shippers who request transportation under Rate Schedule T-1 for firm service and Rate Schedule IT-1 for interruptible service, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

On April 30, 1987, the Commission authorized Northern Border to provide open-access transportation under a blanket certificate of public convenience and necessity pursuant to section 7(c) of Natural Gas Act and section 284.221 of the regulations.[2] According to Dynasty, Northern Border on November 11, 1987 began transporting gas under the blanket certificate and receiving transportation requests. Dynasty contends that, if Northern Border received transportation requests during a two-week open season which exceeded its capacity, Northern Border would reduce the transportation requests on a *pro-rata* basis. Dynasty asserts that Northern Border in January of this year actually received transportation nominations during the open season from November 2, 1987 to November 16, 1987 for approximately 16 times its maximum capacity.

Dynasty states that, prior to the commencement of transportation, Northern Border requires all shippers to

---

[1] The pleading was originally styled as a "motion for declaratory relief under section 5 of the Natural Gas Act." However, we shall treat the pleading as a complaint filed pursuant to Rule 206, 18 CFR 385.206. That rule permits any person to file a "complaint seeking Commission action against any other person alleged to be in contravention or violation of any statute, rule, order, or other law administered by the Commission, or for any other alleged wrong over which the Commission may have jurisdiction."

[2] Northern Border Pipeline Company, 39 FERC ¶61,104 (1987), *reh'g denied*, 41 FERC ¶61,275 (1987).

advance credit in an amount equal to the nominations reflected in the transportation requests, even though the requests may be reduced on a *pro-rata* basis due to capacity constraints. Dynasty contends that this credit requirement is contrary to the intent of Order Nos. 436 and 500 because it is grossly excessive, unduly favors large shippers (who are better able to absorb the excessive credit requirement), and discourages small shippers (like Dynasty) from competing with large shippers for the limited capacity. Dynasty therefore requests that Northern Border be prohibited from requiring shippers to advance an amount of credit which exceeds three times the monetary value of the actual volumes transported and that all open-access transportation on the Northern Border system be suspended until Dynasty's creditworthiness concerns are resolved.

Any person desiring to be heard or to make protest with reference to said complaint should on or before June 23, 1988, file with the Federal Energy Regulatory Commission, 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 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to proceeding or to participate as a party in an hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-12263 Filed 5-31-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI88-388-000]

Fina Oil and Chemical Co.; Application for Conditional Certificate

May 26, 1988

Take notice that on March 29, 1988, Fina Oil and Chemical Company (Fina) of P.O. Box 2159, Dallas, Texas 75221, filed an application pursuant to section 7 of the Natural Gas Act for a conditional certificate of public convenience and necessity to authorize the sale of natural gas to El Paso Natural Gas Company (El Paso) from certain wells in the San Juan Basin of New Mexico. Fina requests that a conditional permanent certificate be issued and held in abeyance until such time as Fina notifies the Commission that deliveries will commence under the permanent certificate on a well-by-well basis. Fina states that this filing is necessary because El Paso has asserted a right to reassign the working interests in these certain wells and is seeking to establish that right as a result of litigation initiated by El Paso against Fina. Fina goes on to say that El Paso has filed with the Commission a Petition for Issuance of Commission Order, Docket No. CI88-331-000, and has asserted therein that the reassignment of working interest to Fina is currently effective. Fina's application is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Fina to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-12262 Filed 5-31-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST88-2549-000 et al.]

Northern Natural Gas Co. et al.; Self-Implementing Transactions

May 25, 1988.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipient" column in the following table indicate the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a trnasportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a motion to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LSA)" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

Lois D. Cashell,

Acting Secretary.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST88-2549	Northern Natural Gas Co	Intercon Gas, Inc	03-01-88	G-S		
ST88-2550	do	Salmon Resources, Ltd	03-01-88	G-S		
ST88-2551	Natural Gas Pipeline Co. of America	Interstate Power Co	03-01-88	G		
ST88-2552	do	Northern Indiana Public Service Co	03-01-88	B		
ST88-2553	Wintershall Pipeline Corp., et al	Southeast Indiana Gas Co., et al	03-01-88	C	07-29-88	10.77
ST88-2555	Louisiana Interstate Gas Corp		03-01-88	C	07-29-88	27.44/32-44
ST88-2556	Tennessee Gas Pipeline Co	Riverside Pipeline Co	03-01-88	B		
ST88-2557	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	03-01-88	B		
ST88-2558	do	do	03-01-88	B		
ST88-2559	do	do	03-01-88	B		
ST88-2560	do	do	03-01-88	B		
ST88-2561	do	do	03-01-88	B		
ST88-2562	Southern Natural Gas Co	City of Dora	03-01-88	B		
ST88-2563	do	City of Douglas	03-01-88	B		
ST88-2564	do	SNG Intrastate Pipeline, Inc	03-01-88	B		
ST88-2565	do	City of Cordele	03-01-88	B		
ST88-2566	South Georgia Natural Gas Co	Woodward Pipeline, Inc	03-01-88	B		
ST88-2567	do	City of Cordele	03-01-88	B		
ST88-2568	do	City of Douglas	03-01-88	B		
ST88-2569	Southern Natural Gas Co	Woodward Pipeline, Inc	03-01-88	B		
ST88-2570	do	Atlanta Gas, Light Co	03-01-88	B		
ST88-2571	do	City of Wrens	03-01-88	B		
ST88-2572	do	Atlanta Gas Light Co	03-01-88	B		
ST88-2573	do	South Carolina Pipeline Corp	03-01-88	B		
ST88-2574	do	SNG Intrastate Pipeline, Inc	03-01-88	B		
ST88-2575	do	Supenn Pipeline Co	03-01-88	B		
ST88-2576	do	SNG Intrastate Pipeline, Inc	03-01-88	B		
ST88-2577	do	Atlanta Gas Light Co	03-01-88	B		
ST88-2578	do	South Carolina Pipeline Corp	03-01-88	B		
ST88-2579	do	Atlanta Gas Light Co	03-01-88	B		
ST88-2580	do	Alabama Gas Corp	03-01-88	B		
ST88-2581	do	SNG Intrastate Pipeline, Inc	03-01-88	B		
ST88-2582	do	Eastex Gas Transmission Co	03-01-88	B		
ST88-2583	ANR Pipeline Co	Consumers Power Co	03-01-88	B		
ST88-2584	do	Cokinos Natural Gas Co	03-01-88	B		
ST88-2585	do	Consumers Power Co	03-01-88	B		
ST88-2586	do	CSX Intrastate Gas Co	03-01-88	B		
ST88-2587	do	Llano, Inc	03-01-88	B		
ST88-2588	Southern Natural Gas Co	Sabine-Desoto Pipeline Co., Inc	03-01-88	B		
ST88-2589	Seagull Shoreline System	Northern Natural Gas Co	03-02-88	C	07-30-88	08.50
ST88-2590	Trunkline Gas Co	Consumers Power Co	03-02-88	B		
ST88-2591	do	do	03-02-88	B		
ST88-2592	do	do	03-02-88	B		
ST88-2593	do	do	03-02-88	B		
ST88-2594	Natural Gas Pipeline Co. of America	Iowa Electric Light & Power Co	03-02-88	B		
ST88-2595	do	Northern Indiana Public Service Co	03-02-88	B		
ST88-2596	do	do	03-02-88	B		
ST88-2597	Delhi Gas Pipeline Corp	El Paso Natural Gas Co	03-01-88	C		
ST88-2598	do	Natural Gas Pipeline Co. of America	03-01-88	C		
ST88-2599	do	Transwestern Pipeline Co	03-01-88	C		
ST88-2600	do	Natural Gas Pipeline Co. of America	03-01-88	C		
ST88-2601	do	Arkla Energy Resources	03-01-88	C	07-29-88	35.00
ST88-2602	Northern Natural Gas Co	Wisconsin Power and Light Co	03-02-88	B		
ST88-2603	do	Phoenix & Chemical Co	03-02-88	G-S		
ST88-2604	do	Natgas U.S. Inc	03-02-88	G-S		
ST88-2605	do	Osage Municipal Utilities	03-02-88	B		
ST88-2606	Transcontinental Gas Pipe Line Corp	City of Union	03-02-88	B		
ST88-2607	do	South Carolina Pipeline Corp	03-02-88	B		
ST88-2608	do	City of Monroe	03-02-88	B		
ST88-2609	do	City of Madison	03-02-88	B		
ST88-2610	do	Philadelphia Electric Co	03-02-88	B		
ST88-2611	do	City of Social Circle	03-02-88	B		
ST88-2612	do	Tri-County Natural Gas Co	03-02-88	B		
ST88-2613	do	City of Wadley	03-02-88	B		
ST88-2614	do	City of Linden	03-02-88	B		
ST88-2615	do	City of Rockford	03-02-88	B		
ST88-2616	do	City of Roanoke	03-02-88	B		
ST88-2617	do	City of Royston	03-02-88	B		
ST88-2618	do	City of Sugar Hill	03-02-88	B		
ST88-2619	do	Southwestern Virginia Gas Co	03-02-88	B		
ST88-2620	do	City of Toccoa	03-02-88	B		
ST88-2621	do	UGI Corp	03-02-88	B		
ST88-2622	do	United Cities Gas Co	03-02-88	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST88-2623	do	Washington Gas Light Co	03-02-88	B		
ST88-2624	do	City of Wedowee	03-02-88	B		
ST88-2625	do	Commission of Public Works, Lauren	03-02-88	B		
ST88-2626	do	Maplesville Water & Gas Board	03-02-88	B		
ST88-2627	do	City of Thomaston	03-02-88	B		
ST88-2628	Natural Gas Pipeline Co. of America	Iowa Electric Light & Power Co	03-03-88	B		
ST88-2629	Cavallo Pipeline Co	Amoco Gas Co	03-03-88	C		
ST88-2630	Northern Natural Gas Co	TPC Pipeline Co	03-03-88	B		
ST88-2631	Texas Gas Transmission Corp	Central Illinois Public Service Co	03-03-88	B		
ST88-2632	do	Victoria Gas Corp	03-03-88	B		
ST88-2633	ANR Pipeline Co	Wisconsin Natural Gas Co	03-03-88	B		
ST88-2634	do	Wisconsin Gas Co	03-03-88	B		
ST88-2635	do	Wisconsin Natural Gas Co	03-03-88	B		
ST88-2636	do	Michigan Consolidated Gas Co	03-03-88	B		
ST88-2637	do	Excel Intrastate Pipeline Co	03-03-88	B		
ST88-2638	do	do	03-03-88	B		
ST88-2639	Transcontinental Gas Pipe Line Corp	City of Commerce	03-03-88	B		
ST88-2640	do	City of Covington	03-03-88	B		
ST88-2641	do	City of Bowman	03-03-88	B		
ST88-2642	do	City of Butler	03-03-88	B		
ST88-2643	do	City of Kings Mountain	03-03-88	B		
ST88-2644	do	Blacksburg Natural Gas System	03-03-88	B		
ST88-2645	do	City of Winder	03-03-88	B		
ST88-2646	do	City of Hartwell	03-03-88	B		
ST88-2647	do	Frederick Gas Co	03-03-88	B		
ST88-2648	do	East Central Alabama Gas District	03-03-88	B		
ST88-2649	do	City of Elberton	03-03-88	B		
ST88-2650	do	City of Clanton	03-03-88	B		
ST88-2651	do	City of Bessemer City	03-03-88	B		
ST88-2652	do	Delhi Gas Pipeline Corp	03-03-88	B		
ST88-2653	do	Public Service Electric and Gas Co	03-03-88	B		
ST88-2654	do	Channel Industries Gas Co	03-03-88	B		
ST88-2655	do	City of Liberty	03-03-88	B		
ST88-2656	do	City of Alexander City	03-03-88	B		
ST88-2657	do	City of Lawrenceville	03-03-88	B		
ST88-2658	do	Comm. of Public Works, City of Greer	03-03-88	B		
ST88-2659	do	City of Fountain Inn	03-03-88	B		
ST88-2660	do	City of Buford	03-03-88	B		
ST88-2661	Natural Gas Pipeline Co. of America	Washington Gas Light Co., et al	03-04-88	B		
ST88-2662	do	Winnie Pipeline Co	03-04-88	B		
ST88-2663	do	Gulf South Pipeline Co	03-04-88	B		
ST88-2664	Crosstex Pipeline Co	United Gas Pipeline Co	03-04-88	C		
ST88-2665	do	Gulf States Gas Corp	03-04-88	C		
ST88-2666	do	United Gas Pipeline Co	03-04-88	C		
ST88-2667	Colorado Interstate Gas Co	Southern California Gas Co	03-04-88	B		
ST88-2669	El Paso Natural Gas Co	Phillips Natural Gas Co	03-04-88	B		
ST88-2670	do	Southern California Gas Co	03-04-88	B		
ST88-2671	do	do	03-04-88	B		
ST88-2672	United Gas Pipe Line Co	Associated Intrastate Pipeline Co	03-04-88	B		
ST88-2673	Trunkline Gas Co	Consumers Power Co	03-04-88	B		
ST88-2674	do	do	03-04-88	B		
ST88-2675	do	do	03-04-88	B		
ST88-2676	do	do	03-04-88	B		
ST88-2677	do	do	03-04-88	B		
ST88-2678	do	do	03-04-88	B		
ST88-2679	do	do	03-04-88	B		
ST88-2680	do	do	03-04-88	B		
ST88-2681	do	do	03-04-88	B		
ST88-2682	Algonquin Gas Transmission Co	North Attleboro Gas Co	03-07-88	B		
ST88-2683	do	Southern Connecticut Gas Co	03-07-88	B		
ST88-2684	do	do	03-07-88	B		
ST88-2685	Transcontinental Gas Pipe Line Corp	Wisconsin Southern Gas Co., et al	03-07-88	B		
ST88-2686	Columbia Gulf Transmission Co	Columbia Gas of Ohio, Inc., et al	03-07-88	B		
ST88-2687	do	Mobile Gas Service Corp., et al	03-07-88	B		
ST88-2688	Channel Industries Gas Co	Northern Natural Gas Co	03-07-88	C		
ST88-2689	Houston Pipe Line Co	Tennessee Gas Pipeline Co	03-07-88	C		
ST88-2690	Delhi Gas Pipeline Corp	Natural Gas Pipeline Co. of America	03-07-88	C		
ST88-2691	Oasis Pipe Line Co	El Paso Natural Gas Co	03-07-88	C		
ST88-2692	do	Tennessee Gas Pipeline Co	03-07-88	C		
ST88-2693	do	El Paso Natural Gas Co	03-07-88	C		
ST88-2694	do	Northern Natural Gas Co	03-07-88	C		
ST88-2695	do	Cabot Gas Supply Corp	03-07-88	C		
ST88-2696	do	Northern Natural Gas Co	03-07-88	C		
ST88-2697	do	Southern California Gas Co	03-07-88	C		
ST88-2698	do	El Paso Natural Gas Co	03-07-88	C		
ST88-2699	do	do	03-07-88	C		
ST88-2700	do	Pacific Gas and Electric Co	03-07-88	C		
ST88-2701	do	Cabot Gas Supply Corp	03-07-88	C		
ST88-2702	do	San Diego Gas & Electric Co	03-07-88	C		
ST88-2703	Houston Pipe Line Co	Pacific Gas and Electric Co	03-07-88	C		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST88-2704	do	Cabot Gas Supply Corp	03-07-88	C		
ST88-2705	do	San Diego Gas & Electric Co	03-07-88	C		
ST88-2706	do	El Paso Natural Gas Co	03-07-88	C		
ST88-2707	do	Natural Gas Pipeline Co. of America	03-07-88	C		
ST88-2708	do	Trunkline Gas Co	03-07-88	C		
ST88-2709	do	Northern Natural Gas Co	03-07-88	C		
ST88-2710	do	Texas Eastern Transmission Corp	03-07-88	C		
ST88-2711	Trunkline Gas Co	Consumer Powers Co	03-08-88	B		
ST88-2712	do	do	03-08-88	B		
ST88-2713	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co	03-08-88	B		
ST88-2714	do	Union Electric Co	03-08-88	B		
ST88-2715	Tennessee Gas Pipeline Co	Polaris Corp	03-08-88	B		
ST88-2716	do	Delmarva Power & Light Co., et al	03-08-88	B		
ST88-2717	Natural Gas Pipeline Co. of America	Pacific Gas & Electric Co., et al	03-08-88	B		
ST88-2718	Seagull Shoreline System	Northern Natural Gas Co	03-08-88	C	08-05-88	08.50
ST88-2719	Valero Interstate Transmission Co	Valero Transmission, L.P.	03-09-88	B		
ST88-2720	Transcontinental Gas Pipe Line Corp	Philadelphia Gas Works	03-09-88	B		
ST88-2721	do	Washington Gas Light Co	03-09-88	B		
ST88-2722	do	Public Service Electric and Gas Co	03-09-88	B		
ST88-2723	do	Consolidated Edison Co. of NY, Inc	03-09-88	B		
ST88-2724	do	North Carolina Natural Gas Corp	03-09-88	B		
ST88-2725	do	Brooklyn Union Gas Co	03-09-88	B		
ST88-2726	do	UGI Corp	03-09-88	B		
ST88-2727	do	Lynchburg Gas Co	03-09-88	B		
ST88-2728	do	Long Island Lighting Co	03-09-88	B		
ST88-2729	do	Public Service Co. of N. Carolina	03-09-88	B		
ST88-2730	Mountain Fuel Resources, Inc	Northwest Natural Gas Co	03-09-88	B		
ST88-2731	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	03-09-88	B		
ST88-2732	do	do	03-09-88	B		
ST88-2733	do	do	03-09-88	B		
ST88-2734	do	do	03-09-88	B		
ST88-2735	do	do	03-09-88	B		
ST88-2736	do	do	03-09-88	B		
ST88-2737	do	do	03-09-88	B		
ST88-2738	do	Eastex Gas Transmission Co	03-09-88	B		
ST88-2739	do	Bowling Green Gas Co	03-09-88	B		
ST88-2740	do	Central Illinois Light Co	03-09-88	B		
ST88-2741	do	do	02-09-88	B		
ST88-2742	do	do	03-09-88	B		
ST88-2743	do	do	03-09-88	B		
ST88-2744	do	do	03-09-88	B		
ST88-2745	Tennessee Gas Pipeline Co	Eastern Shore Natural Gas Co., et al	03-10-88	B/G		
ST88-2746	Valero Transmission L.P.	Trunkline Gas Co	03-10-88	C		
ST88-2747	do	Tennesse Gas Pipeline Co	03-10-88	C		
ST88-2748	do	do	03-10-88	C		
ST88-2749	do	Transwestern Pipeline Co	03-10-88	C		
ST88-2750	Cabot Pipeline Corp	El Paso Natural Gas Co	03-11-88	C	08-08-88	32.00
ST88-2751	Northern Natural Gas Co	NGC Intrastate Pipeline Co	03-11-88	B		
ST88-2752	do	Southern California Gas Co	03-11-88	B		
ST88-2753	do	Bridgeline Gas Distribution Co	03-11-88	B		
ST88-2754	do	Pogo Producing Co	03-11-88	G-S		
ST88-2755	El Paso Natural Gas Co	Cabot Pipeline Corp	03-11-88	B		
ST88-2756	Transcontinental Gas Pipe Line Corp	Cranberry Pipeline Corp	03-11-88	B		
ST88-2757	do	do	03-11-88	B		
ST88-2758	do	do	03-11-88	B		
ST88-2759	ANR Pipleline Co	Bridgeline Gas Distribution Co	03-10-88	B		
ST88-2760	United Gas Pipe Line Co	Entex, Inc	03-11-88	B		
ST88-2761	Panhandle Eastern Pipe Line Co	Macon Municipal Utilities	03-11-88	B		
ST88-2762	do	Columbia Gas of Ohio, et al	03-11-88	B		
ST88-2763	Mountain Fuel Resources, Inc	Public Service Co. of Colorado	03-14-88	B		
ST88-2764	ANR Pipeline Co	Memphis Light, Gas and Water Division	03-10-88	B		
ST88-2765	do	Louisville Gas & Electric Co	03-14-88	B		
ST88-2766	Trunkline Gas Co	Columbia Gas of Ky, et al	03-14-88	B		
ST88-2767	do	Exxon Co., U.S.A.	03-14-88	G-S		
ST88-2768	do	Panhandle Eastern Pipe Line Co	03-14-88	G		
ST88-2769	do	Consumers Power Co	03-14-88	B		
ST88-2770	do	do	03-14-88	B		
ST88-2771	Colorado Interstate Gas Co	Kansas Gas Supply Corp	03-14-88	B		
ST88-2772	ANR Pipeline Co	Coastal States Gas Transmission Co	03-14-88	B		
ST88-2773	do	Sun Gas Transmission Co., Inc	03-14-88	B		
ST88-2774	do	Peoples Natural Gas Co	03-14-88	B		
ST88-2775	do	Cincinnati Gas and Electric Co	03-14-88	B		
ST88-2776	Northwest Pipeline Corp	Intermountain Gas Co	03-14-88	B		
ST88-2777	do	Washington Water Power Co	03-14-88	B		
ST88-2778	do	Northwest Natural Gas Co	03-14-88	G		
ST88-2779	do	Washington Natural Gas Co	03-14-88	B		
ST88-2780	do	Intermountain Gas Co	03-14-88	B		
ST88-2781	do	Northwest Natural Gas Co	03-14-88	B		
ST88-2782	do	Southwest Gas Corp	03-14-88	B		
ST88-2783	do	Llano, Inc	03-14-88	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST88-2784	....do	Intermountain Gas Co	03-14-88	B		
ST88-2785	Tennessee Gas Pipeline Co	Bay State Gas Co	03-15-88	B		
ST88-2786	....do	City of Richmond, et al	03-15-88	B/G		
ST88-2787	Natural Gas Pipeline Co. of America	Transamerican Gas Transmission Corp	03-15-88	B		
ST88-2788	....do	Public Service Electric & Gas, et al	03-15-88	B		
ST88-2789	....do	Iowa Southern Utilities Co	03-15-88	B		
ST88-2790	....do	Dean Foods Co	03-15-88	G-S		
ST88-2791	....do	Illinois Power Co	03-15-88	G-S		
ST88-2792	Northern Border Pipeline Co	Mobil Gas Co., Inc	03-15-88	G-S		
ST88-2793	Gas Co. of NM (Div. Public Serv. Co. NM)	El Paso Natural Gas Co	03-15-88	D		
ST88-2794	Columbia Gulf Transmission Co	Natural Gas Pipeline Co. of America	03-15-88	G		
ST88-2795	South Georgia Natural Gas Co	City of Donaldsonville	03-15-88	B		
ST88-2796	....do	City of Montezuma	03-15-88	B		
ST88-2797	....do	City of Nashville	03-15-88	B		
ST88-2798	....do	City of Havana	03-15-88	B		
ST88-2799	....do	City of Cuthbert	03-15-88	B		
ST88-2800	....do	Water, Gas & Light Commission of Albany	03-15-88	B		
ST88-2801	....do	....do	03-15-88	B		
ST88-2802	Southern Natural Gas Co	Atlanta Gas Light Co	03-15-88	B		
ST88-2803	....do	....do	03-15-88	B		
ST88-2804	....do	Pickens County Natural Gas District	03-15-88	B		
ST88-2805	....do	City of Donaldsonville	03-15-88	B		
ST88-2806	....do	Bishop Pipeline Corp	03-15-88	B		
ST88-2807	....do	Atlanta Gas Light Co	03-15-88	B		
ST88-2808	....do	....do	03-15-88	B		
ST88-2809	....do	City of Manchester	03-15-88	B		
ST88-2810	....do	City of Trion	03-15-88	B		
ST88-2811	....do	South Carolina Pipeline Corp	03-15-88	B		
ST88-2812	....do	Dalton Utilities	03-15-88	B		
ST88-2813	....do	Atlanta Gas Light Co	03-15-88	B		
ST88-2814	....do	....do	03-15-88	B		
ST88-2815	....do	SNG Intrastate Pipeline, Inc	03-15-88	B		
ST88-2816	....do	City of Havana	03-15-88	B		
ST88-2817	....do	Atlanta Gas Light Co	03-15-88	B		
ST88-2818	....do	City of Warner Robins	03-15-88	B		
ST88-2819	....do	City of Cuthbert	03-15-88	B		
ST88-2820	....do	Water, Gas & Light Commission of Albany	03-15-88	B		
ST88-2821	....do	Mississippi Valley Gas Co	03-15-88	B		
ST88-2822	....do	....do	03-15-88	B		
ST88-2823	....do	City of York	03-15-88	B		
ST88-2824	....do	Raleigh Natural Gas Corp	03-15-88	B		
ST88-2825	....do	United Cities Gas Co	03-15-88	B		
ST88-2826	....do	City of Warner Robins	03-15-88	B		
ST88-2827	....do	South Carolina Pipeline Corp	03-15-88	B		
ST88-2828	....do	City of Nashville	03-15-88	B		
ST88-2829	....do	City of Montezuma	03-15-88	B		
ST88-2830	....do	Water, Gas & Light Commission of Albany	03-15-88	B		
ST88-2831	Natural Gas Pipeline Co. of America	Central Illinois Light Co	03-16-88	B		
ST88-2832	....do	Northern Indiana Public Service Co	03-16-88	B		
ST88-2833	....do	International Paper Co	03-16-88	G-S		
ST88-2834	Delhi Gas Pipeline Corp	Natural Gas Pipeline Co. of America	03-16-88	C	08-13-88	35.00
ST88-2835	Northwest Pipeline Corp	Cascade Natural Gas Corp	03-16-88	B		
ST88-2836	Trunkline Gas Co	Consumers Power Co	03-16-88	B		
ST88-2837	Transcontinental Gas Pipe Line Corp	Philadelphia Electric Co	03-17-88	B		
ST88-2838	....do	....do	03-17-88	B		
ST88-2839	Natural Gas Pipeline Co. of America	Southern California Gas Co	03-17-88	B		
ST88-2840	....do	Peoples Gas Light & Coke Co	03-17-88	B		
ST88-2841	....do	International Paper Co	03-17-88	G-S		
ST88-2842	Valero Transmission L.P.	Natural Gas Pipeline of America	03-17-88	C		
ST88-2843	Northern Natural Gas Co	Minnegasco, Inc	03-16-88	B		
ST88-2844	Tennessee Gas Pipeline Co	Monterey Pipeline Co	03-16-88	B		
ST88-2845	....do	Wintershall, Louisiana Corp	03-16-88	B		
ST88-2846	....do	CNG Transmission Co	03-16-88	G		
ST88-2847	....do	Southern Connecticut Gas Co	03-16-88	B		
ST88-2848	....do	Columbia Gas of Pennsylvania, Inc	03-18-88	B		
ST88-2849	....do	Peoples Natural Gas Co., et al	03-16-88	B		
ST88-2850	CNG Transmission Corp	Niagara Mohawk Power Corp	03-17-88	B		
ST88-2851	....do	East Ohio Gas Co	03-17-88	B		
ST88-2852	....do	Rochester Gas & Electric Corp	03-17-88	B		
ST88-2853	....do	Niagara Mohawk Power Corp	03-17-88	B		
ST88-2854	....do	Rochester Gas & Electric Corp	03-17-88	B		
ST88-2855	....do	....do	03-17-88	B		
ST88-2856	Colorado Interstate Gas Co	MGTC, Inc	03-25-88	B		
ST88-2857	Northwest Pipeline Corp	San Diego Gas & Electric Co	03-17-88	B		
ST88-2858	....do	Coastal States Gas Transmission Co	03-17-88	B		
ST88-2860	Sandy Hook Pipeline Inc	United Gas Pipeline Co	03-17-88	C	08-14-88	09.47
ST88-2861	Northern Natural Gas Co	Virginia Minnesota Dept. of Public Util	03-17-88	B		
ST88-2862	....do	Northern States Power Co	03-17-88	B		
ST88-2863	Tennessee Gas Pipeline Co	Catamount Natural Gas, Inc	03-18-88	G-S		
ST88-2864	....do	CNG Transmission Corp	03-18-88	G		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST88-2865	Natural Gas Pipeline Co. of America	Winnie Pipeline Co	03-18-88	B		
ST88-2866	do	City of Sullivan	03-18-88	B		
ST88-2867	do	Northern Illinois Gas Co	03-18-88	B		
ST88-2868	do	North Shore Gas Co	03-18-88	B		
ST88-2869	Tennessee Gas Pipeline Co	National Fuel Gas Supply Corp	03-18-88	G		
ST88-2870	do	National Fuel Gas Distribution Corp	03-18-88	B		
ST88-2871	do	Niagara Mohawk Power Corp., et al	03-18-88	B		
ST88-2872	do	Elizabethtown Gas Co., et al	03-18-88	B		
ST88-2873	Transcontinental Gas Pipe Line Corp	Delmarva Power & Light Co., et al	03-18-88	B		
ST88-2874	do	Baltimore Gas & Electric Co., et al	03-18-88	B		
ST88-2875	do	Consumers Power Co., et al	03-18-88	B		
ST88-2876	Natural Gas Pipeline Co. of America	Pacific Gas and Electric Co	03-18-88	B		
ST88-2877	do	Lake Shore Pipeline Co	03-18-88	B		
ST88-2878	Northern Natural Gas Co	Wisconsin Power and Light Co	03-18-88	B		
ST88-2879	do	City of Hawarden	03-18-88	B		
ST88-2880	ANR Pipeline Co	Atlanta Gas Light Co	03-18-88	B		
ST88-2881	Valero Transmission, L.P.	Valero Interstate Transmission Co	03-21-88	C		
ST88-2882	do	do	03-21-88	C		
ST88-2883	Questar Pipeline Co	Cascade Natural Gas Corp	03-21-88	B		
ST88-2884	Trunkline Gas Co	Yankee Pipeline Co	03-21-88	B		
ST88-2885	do	do	03-21-88	B		
ST88-2886	do	Amoco Production Co	03-21-88	G-S		
ST88-2887	do	Southeastern Michigan Gas Co	03-21-88	B		
ST88-2888	do	World Color Press	03-21-88	G-S		
ST88-2889	do	Olympic Pipeline Co	03-21-88	B		
ST88-2890	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	03-21-88	B		
ST88-2891	Natural Gas Pipeline Co. of America	Olin Corp	03-21-88	G-S		
ST88-2892	do	Texline Gas Co	03-21-88	B		
ST88-2893	do	Northern Illinois Gas Co	03-21-88	B		
ST88-2894	do	Enogex Inc	03-21-88	B		
ST88-2895	Delhi Gas Pipeline Corp	ANR Pipeline Co	03-21-88	C		
ST88-2896	Sabine Pipe Line Co	Amax Oil & Gas Inc	03-21-88	G-S		
ST88-2897	Tennessee Gas Pipeline Co	Connecticut Natural Gas Corp	03-21-88	B		
ST88-2898	do	Southern Gas Pipeline Co	03-21-88	B		
ST88-2899	do	Michigan Consolidated Gas Co., et al	03-21-88	B		
ST88-2900	do	Cameron Gas Company	03-21-88	B		
ST88-2901	ANR Pipeline Co	Ohio Gas Co	03-21-88	B		
ST88-2902	do	Michigan Consolidated Gas Co	03-21-88	B		
ST88-2903	do	do	03-21-88	B		
ST88-2904	Transcontinental Gas Pipe Line Corp	United Cities Gas Co., SC Div	03-21-88	B		
ST88-2905	Louisiana Intrastate Gas Corp	Texas Eastern Transmission Corp	03-22-88	C	08-10-88	27.44
ST88-2906	Arkla Energy Resources	Commonwealth Gas Services	03-22-88	B		
ST88-2907	do	Terre Haute Gas Corp	03-22-88	B		
ST88-2908	Houston Pipe Line Co	Natural Gas Pipeline Co. of America	03-22-88	C		
ST88-2909	do	Northern Natural Gas Co	03-22-88	C		
ST88-2910	do	do	03-22-88	C		
ST88-2911	do	Tennessee Gas Pipeline Co	03-22-88	C		
ST88-2912	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	03-22-88	B		
ST88-2913	do	Northern Illinois Gas Co	03-22-88	B		
ST88-2914	do	Northern Indiana Fuel & Light Co	03-22-88	B		
ST88-2915	do	Central Illinois Light Co	03-22-88	B		
ST88-2916	do	Consumers Power Co	03-22-88	B		
ST88-2917	do	do	03-22-88	B		
ST88-2918	Panhandle Gas Co	Northern Natural Gas Co	03-22-88	D		
ST88-2919	Oasis Pipe Line Co	do	03-22-88	C		
ST88-2920	do	Southern California Gas Co	03-22-88	C		
ST88-2921	Houston Pipe Line Co	Seagull Interstate Corp	03-22-88	C		
ST88-2922	do	Northern Natural Gas Co	03-22-88	C		
ST88-2923	Natural Gas Pipeline Co. of America	Winnie Pipeline Co	03-23-88	B		
ST88-2924	do	Southern California Gas Co	03-23-88	B		
ST88-2925	do	Spindletop Gas Distribution System	03-23-88	B		
ST88-2926	Houston Pipe Line Co	Natural Gas Pipeline Co. of America	03-22-88	C		
ST88-2927	Northern Natural Gas Co	NGC Intrastate Pipeline Co	03-22-88	B		
ST88-2928	Colorado Interstate Gas Co	MGTC, Inc	03-22-88	B		
ST88-2929	Panhandle Eastern Pipe Line Co	Consumers Power Co	03-23-88	B		
ST88-2930	Columbia Gulf Transmission Co	Transcontinental Gas Pipe Line Corp	03-23-88	G		
ST88-2931	do	Louisiana Intrastate Gas Corp	03-23-88	B		
ST88-2932	Delhi Gas Pipeline Corp	Transcontinental Gas Pipe Line Corp	03-23-88	C		
ST88-2933	Panhandle Eastern Pipe Line Co	KPL Gas Service Co	03-24-88	B		
ST88-2934	do	Central Illinois Public Service Co	03-24-88	B		
ST88-2935	do	Central Illinois Light Co	03-24-88	B		
ST88-2936	do	Western Gas Supply Co	03-24-88	B		
ST88-2937	do	Central Illinois Light Co	03-24-88	B		
ST88-2938	do	do	03-24-88	B		
ST88-2939	do	do	03-24-88	B		
ST88-2940	do	Columbia Gas of Ohio, Inc	03-24-88	B		
ST88-2941	do	Southeastern Michigan Gas Co	03-24-88	B		
ST88-2942	Texas Gas Transmission Corp	Western Kentucky Gas Co	03-24-88	B		
ST88-2943	do	do	03-24-88	B		
ST88-2944	do	do	03-24-88	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST88-2945	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	03-24-88	B		
ST88-2946	Tennessee Gas Pipeline Co	Nashville Gas Co	03-24-88	B		
ST88-2947	ANR Pipeline Co	Consumers Power Co	03-24-88	B		
ST88-2948	do	Mountaineer Gas Co	03-24-88	B		
ST88-2949	El Paso Natural Gas Co	Southern California Gas Co	03-25-88	B		
ST88-2950	Tennessee Gas Pipeline Co	Texas Eastern Transmission Corp	03-25-88	G		
ST88-2951	do	do	03-25-88	G		
ST88-2952	Northern Natural Gas Co	Emmetsburg Municipal Gas Works	03-25-88	B		
ST88-2953	Tennessee Gas Pipeline Co	NGC Intrastate Pipeline Co	03-25-88	B		
ST88-2954	Arkla Energy Resources	Arkansas Louisiana Gas Co	03-25-88	B		
ST88-2955	do	do	03-25-88	B		
ST88-2956	do	do	03-24-88	B		
ST88-2957	do	Amalgamated Pipeline Co	03-25-88	B		
ST88-2958	Northwest Pipeline Corp	Northwest Natural Gas Co	03-25-88	B		
ST88-2959	do	Victoria Gas Corp	03-25-88	B		
ST88-2960	do	Southwest Gas Corp	03-25-88	B		
ST88-2961	do	Intermountain Gas Co	03-25-88	B		
ST88-2962	do	Eastex Gas Transmission Co	03-25-88	B		
ST88-2963	do	San Diego Gas & Electric Co	03-25-88	B		
ST88-2964	Transcontinental Gas Pipe Line Corp	Pennsylvania and Southern Gas Co	03-28-88	B		
ST88-2965	do	do	03-28-88	B		
ST88-2966	Natural Gas Pipeline Co. of America	Lawrenceburg Gas Co	03-28-88	B		
ST88-2967	do	Wisconsin Southern Gas Co., Inc	03-28-88	B		
ST88-2968	do	Indiana Gas Co., Inc	03-28-88	B		
ST88-2969	do	Venture Pipeline Co	03-28-88	B		
ST88-2970	Valero Transmission, L.P.	El Paso Natural Gas Co	03-28-88	C		
ST88-2971	Texas Gas Transmission Corp	Public Service Electric and Gas Co	03-28-88	B		
ST88-2972	do	Wintershall Louisiana Corp	03-28-88	B		
ST88-2973	Tennessee Gas Pipeline Co	Baltimore Gas & Electric Co., et al	03-28-88	B		
ST88-2974	Colorado Interstate Gas Co	Coastal States Gas Transmission Co	03-28-88	B		
ST88-2975	Tennessee Gas Pipeline Co	NGC Intrastate Pipeline Co	03-28-88	B		
ST88-2976	Panhandle Eastern Pipe Line Co	KPL Gas Service Co	03-28-88	B		
ST88-2977	do	Ohio Gas Co	03-28-88	B		
ST88-2978	do	Northern Indiana Fuel & Light Co	03-28-88	B		
ST88-2979	do	Central Illinois Light Co	03-28-88	B		
ST88-2980	do	do	03-28-88	B		
ST88-2981	do	do	03-28-88	B		
ST88-2982	Tennessee Gas Pipeline Co	Pennsylvania and Southern Gas Co	03-29-88	B		
ST88-2983	do	Intercon Gas, Inc	03-29-88	G-S		
ST88-2984	Supenn Pipeline Co	United Gas Pipe Line Co	03-29-88	C	08-26-88	11.00
ST88-2985	Tennessee Gas Pipeline Co	City of Clarksville	03-29-88	B		
ST88-2986	do	City of Portland	03-29-88	B		
ST88-2987	do	City of Springfield	03-29-88	B		
ST88-2988	do	Mountaineer Gas Co	03-29-88	B		
ST88-2989	Transwestern Pipeline Co	Iowa Public Service Co	03-29-88	B		
ST88-2990	Northern Natural Gas Co	Public Service Electric and Gas Co	03-29-88	B		
ST88-2991	do	Seagull Louisiana Intrastate Pipeline Co	03-29-88	B		
ST88-2992	do	Florida Gas Transmission Co	03-29-88	G		
ST88-2993	Panhandle Eastern Pipe Line Co	Cimarron River Pipeline System Div	03-29-88	B		
ST88-2994	do	Illinois Power Co	03-29-88	B		
ST88-2995	do	Cimarron River Pipeline System Div	03-29-88	B		
ST88-2996	United Gas Pipe Line Co	Chevron U.S.A	03-29-88	G-S		
ST88-2997	do	do	03-29-88	G-S		
ST88-2998	Natural Gas Pipeline Co. of America	Monarch Gas Co	03-29-88	B		
ST88-2999	do	Osage Natural Gas Company	03-29-88	B		
ST88-3000	do	City of Salem	03-29-88	B		
ST88-3001	do	Kaskaskia Gas Company	03-29-88	B		
ST88-3002	do	City of Nebraska City	03-29-88	B		
ST88-3003	do	Southern Union Gas Co	03-29-88	B		
ST88-3004	do	City of Perryville	03-29-88	B		
ST88-3005	do	City of Pinckneyville	03-29-88	B		
ST88-3006	do	Union Electric Co	03-29-88	B		
ST88-3007	Tennessee Gas Pipeline Co	Quivira Gas Co	03-30-88	B		
ST88-3008	Tekas Corp	Northern Natural Gas Co	03-30-88	C		
ST88-3009	Columbia Gulf Transmission Co	Brooklyn Union Gas Co., et al	03-30-88	B		
ST88-3010	Katy Interchange Service		12-09-87	C	05-08-88	03.18
ST88-3011	Columbia Gulf Transmission Co	Philadelphia Gas Works, et al	03-30-88	B		
ST88-3012	do	Transcontinental Gas Pipe Line Corp	03-30-88	G		
ST88-3013	ANR Pipeline Co	TPC Pipeline Co	03-30-88	B		
ST88-3014	do	Baltimore Gas and Electric Co	03-30-88	B		
ST88-3015	do	do	03-30-88	B		
ST88-3016	do	Wisconsin Fuel and Light Co	03-30-88	B		
ST88-3017	do	Wisconsin Public Service Co	03-30-88	B		
ST88-3018	do	Washington Gas Light Co	03-30-88	B		
ST88-3019	do	Wisconsin Gas Co	03-30-88	B		
ST88-3020	do	NGC Intrastate Pipeline Co	03-30-88	B		
ST88-3021	do	Wisconsin Gas Co	03-30-88	B		
ST88-3022	do	Wisconsin Public Service Co	03-30-88	B		
ST88-3023	do	Madison Gas & Electric Co	03-30-88	B		
ST88-3024	Natural Gas Pipeline Co. of America	Lear Gas Transmission Co	03-31-88	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST88-3025	do	Delhi Gas Pipeline Corp	03-31-88	B		
ST88-3026	do	ONG Transmission Co	03-31-88	B		
ST88-3027	do	Enogex Inc	03-31-88	B		
ST88-3028	El Paso Natural Gas Co	Eastex Gas Transmission Co	03-31-88	B		
ST88-3029	do	Southwest Gas Corp	03-31-88	B		
ST88-3030	Columbia Gulf Transmission Co	Northern Illinois Gas Co., et al	03-31-88	B		
ST88-3031	ONG Transmission Co	Getty Gas Gathering, Inc	03-31-88	C	08-28-88	24.32
ST88-3032	Trunkline Gas Co	Michigan Gas Utilities Co	03-31-88	B		
ST88-3033	do	Chevron U.S.A	03-31-88	G-S		
ST88-3034	Texas Gas Transmission Corp	Western Kentucky Gas Co	03-31-88	B		
ST88-3035	do	Peoples Natural Gas Co	03-31-88	B		
ST88-3036	Tennessee Gas Pipeline Co	Columbia Gas of Ohio, Inc., et al	03-31-88	B		
ST88-3037	do	Nycotex Gas Transport	03-31-88	B		
ST88-3038	do	Columbia Gas of Md., Inc., et al	03-31-88	B		
ST88-3039	Transcontinental Gas Pipe Line Corp	Alabama Gas Corp., et al	03-31-88	B		
ST88-3040	do	Wintershall Louisiana Corp	03-31-88	B		
ST88-3041	do	Alabama Gas Corp., et al	03-31-88	B		
ST88-3042	do	Tri-County Natural Gas Co	03-31-88	B		
ST88-3043	United Gas Pipe Line Co	Victoria Gas Corp	03-31-88	B		
ST88-3044	do	Louisiana State Gas Corp	03-31-88	B		
ST88-3045	do	Madison Gas and Electric, et al	03-31-88	B		
ST88-3046	do	Woodward Pipeline, Inc	03-31-88	B		
ST88-3047	do	LGS Intrastate, Inc	03-31-88	B		
ST88-3048	do	Louisiana Gas Marketing, et al	03-31-88	B		
ST88-3049	do	Jala Pipe Line Corp	03-31-88	B		
ST88-3050	Southern Natural Gas Co	Atlanta Gas Light Co	03-31-88	B		
ST88-3051	do	City of Dalton	03-31-88	B		
ST88-3052	do	City of Wrens	03-31-88	B		
ST88-3053	do	City of Livingston	03-31-88	B		
ST88-3054	do	City of Columbiana	03-31-88	B		
ST88-3055	do	New Orleans Public Service, Inc	03-31-88	B		
ST88-3056	do	City of Lanett	03-31-88	B		
ST88-3057	do	Dalton Utilities	03-31-88	B		
ST88-3058	ANR Pipeline Co	Wisconsin Power and Light Co	03-31-88	B		
ST88-3059	do	Northern Indiana Public Service Co	03-31-88	B		
ST88-3060	do	Wisconsin Gas Co	03-31-88	B		
ST88-3061	do	Wisconsin Public Service Co	03-31-88	B		
ST88-3062	do	Michigan Gas Utilities Co	03-31-88	B		
ST88-3063	do	Madison Gas & Electric Co	03-31-88	B		
ST88-3064	do	Iowa Southern Utilities Co	03-31-88	B		
ST88-3065	do	Consumers Power Co	03-31-88	B		
ST88-3066	do	Ohio Gas Co	03-31-88	B		
ST88-3067	do	Commonwealth Gas Services	03-31-88	B		

[1] Notice of transactions does not constitute a determination that filings comply with Commission regulations in accordance with Order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/18/85).

[2] The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(b)(2) of the Commission's regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 88-12124 Filed 5-31-88; 8:45 am]
BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of December 4 Through December 11, 1987

During the Week of December 4 through December 11, 1987, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 24, 1988.

List of Cases Received by the Office of Hearings and Appeals

[Week of December through December 11, 1987]

Date	Name and location of applicant	Case No.	Type of Submission
Dec. 7, 1987	Multinational Legal Services, P.C., Washington, DC.	KFA-0150	Appeal of an Information, Request Denial. If granted: The November 20, 1987, Freedom of Information Request Denial issued by the San Francisco Operations Office would be rescinded and Multinational Legal Services would receive access to documents regarding process specifications which prescribe the disposal of trichloroethylene.
Dec. 7, 1987	Nuclear Data, Inc., Schaumberg, IL	KFA-0149	Appeal of an Information, Request Denial. If granted: The November 13, 1987, Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded and Nuclear Data, Inc. would receive access to the results of Rockwell International RFO No. 05569GM and 07211 HG.
Dec. 7, 1987	Glen Milner, Seattle, WA	KFA-0150	Appeal of an Information, Request Denial. If granted: The November 24, 1987, Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded and Glen Milner would receive access to a complete copy of a document regarding the Trident nuclear warhead.
Dec. 11, 1987	Arkansas, Little Rock, AR	KER-0037	Request for Modification/Rescission. If granted: The June 26, 1987 Decision and Order issued to Arkansas (Case No. KEG-0010) would be rescinded and Arkansas' proposal for the use of the Stripper Well funds would be approved.
Dec. 11, 1987	Belcher Oil Company, Inc., Murray, KY	KXE-0158	Exception to the Reporting Requirements. If granted: Belcher Oil Company, Inc. would continue to receive the relief previously granted in the December 24, 1986 Decision and Order (Case No. KEE-0065).

Refund Applications Received

[Week of December 4 to December 11, 1987]

Date received	Name of Refund Proceeding, Name of Refund Applicant	Case No.
12/04/87	Amoco II/North Carolina	RQ251-416
12/04/87 thru 12/11/87.	Crude Oil Refund Applications Received	RF272-12881 thru RF272-15526
12/04/87 thru 12/11/87.	Gulf Oil Refund Applications Received	RF300-4130 thru RF300-4318
06/29/87	HY-Grade Oil Company	RF265-2589
06/29/87	HY-Grade Oil Company	RF265-2590
11/06/86	Astroline Corporation	RF265-2588
11/24/87	Shamrock Wholesale	RF253-42
12/09/87	Laclede Steel	RD272-2886
12/09/87	Granite City Steel	RF272-01106
12/09/87	Central Foundry Company	RD272-0475
12/09/87	Armco Eastern Steel Division	RF272-0394

[FR Doc. 88-12171 Filed 5-31-88; 8:45 am]
BILLING CODE 6450-01-M

Cases Filed; Week of February 26 Through March 4, 1988

During the Week of February 26 through March 4, 1988, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

May 24, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of February 26 through March 4, 1988]

Date	Name and location of applicant	Case No.	Type of Submission
Feb. 11, 1988	Mobile/Friendly Service Oil Co., Fredericktown, MD.	RR225-17	Request for Modification/Rescission. If granted: The January 22, 1988 determination issued to Friendly Service Oil Company (Case NO. RF225-10917) regarding the firm's application for refund in the Mobil Oil proceeding would be rescinded.
Feb. 11, 1988	Mobil/Kirkland Oil Co., Jacksonville, TX	RR225-14	Request for Modification/Rescission. If granted: The January 22, 1988 determination issued to Kirkland Oil Company (Case No. RF225-10938) regarding the firm's Mobil Oil refund application would be rescinded.
Feb. 11, 1988	Mobil/Lakewood Oil Co., Lakewood, NJ	RR225-16	Request for Modification/Rescission. If granted: The January 22, 1988 determination issued to Lakewood Oil Company (Case No. RF 225-10934) regarding the firm's Mobil Oil refund application would be rescinded.
Feb. 11, 1988	Mobil/Larko, Inc., Spokane, WA	RR225-15	Request for Modification/Rescission. If granted: The January 22, 1988 determination issued to Larko, Inc. (Case No. RF 225-10935) regarding the firm's Mobil Oil refund application would be rescinded.
Feb. 19, 1988	Mobil/E.E. Holub, Waco, TX	RR225-13	Request for Modification/Rescission. If granted: The February 5, 1988 Decision and Order issued to E.E. Holub (Case No. RF225-5776) regarding E.E. Holub's application in the Mobil Oil proceeding would be modified.
Feb. 29, 1988	The Herald, Dublin, CA	KFA-0165	Appeal of an Information Request Denial. If granted: The February 22, 1988 Freedom of Information Request Denial issued by the San Francisco Operations Office would be rescinded and the Herald would receive access to all correspondence regarding the X-ray laser program.
Mar. 4, 1988	Indiana, Indianapolis, IN	KER-0039	Request for Modification/Rescission. If granted: The November 10, 1987 Decision and Order issued to the State of Indiana (Case No. KEG-0019) regarding Indiana's use of stripper well monies for a project previously disapproved by the Assistant Secretary for Conservation and Renewable Energy would be modified.

Refund Applications Received

[Week of February 26 to March 4, 1988]

Date Received	Name of Refund Proceeding/Name of Refund Applicant	Case No.
03/02/88	Tesoro Petroleum/DeMemmo-Kerdoon	KRO-0630
03/03/88	King Petroleum, Inc. *et al*	KRO-0640
02/26/88 thru 03/04/88.	Crude Oil Refund Applications Received	RF272-47521 thru RF272-48225
02/26/88 thru 03/04/88.	Gulf Oil Refund Applications Received	RF300-5573 thru RF300-5763
02/26/88 thru 03/04/88.	Crude Oil Refund Applications Received	RF272-47521 thru RF272-48225
02/26/88 thru 03/04/88.	Gulf Oil Refund Applications Received	RF300-5573 thru RF300-5763
10/28/85	Gulf Oil Corporation	RF189-23
02/29/88	James Weadick	RF299-79
04/03/87	Sires Oil Company	RF265-2610
07/09/87	Gas 'N Save, Inc	RF225-10977
07/09/87	Gas 'N Save, Inc	RF225-10978
08/01/86	W. B. Tripp, Inc	RF225-10979
08/01/86	W. B. Tripp, Inc	RF225-10980
07/22/86	Norman A. Cozens Mobil Dist	RF225-10981
08/01/86	Peoples Oil Company, Inc	RF225-10982
08/01/86	Collis Oil Company	RF225-10983
08/01/86	Lipp Motors	RF225-10984
04/21/86	R. M. Bunstock Oil & Supply	RF225-10985
08/01/86	C & W Enterprises, Inc	RF225-10986
08/01/86	Marshall Distributing Co., Inc	RF225-10987
09/03/86	Lott Oil Company	RF225-10988
09/03/86	Miller Oil, Inc	RF225-10989

REFUND APPLICATIONS RECEIVED—Continued

[Week of February 26 to March 4, 1988]

Date Received	Name of Refund Proceeding/Name of Refund Applicant	Case No.
05/05/86	Wenatchee Petroleum Company	RF225-10990
05/05/86	Dirr & Biler Oil Company	RF225-10991
08/01/86	A.P. Stephenson Oil Company	RF225-10992
05/05/86	Templin Oil Company	RF225-10993
09/02/86	Fuller Oil Company, Inc	RF225-10994
02/29/88	A. Duda and Sons, Inc	RD272-12662
02/29/88	Sidemar Di Navigazione S.P	RD272-12663
02/29/88	Grace Development Company	RD272-12669
02/29/88	Brewer Chemical	RD272-12810
02/29/88	Embiricos Shipping Agency	RD272-12844
02/29/88	Osceola Farms Company	RD272-12844
02/29/88	Trapp Rock Industries	RD272-13164
02/29/88	Continental Grain Company	RD272-13180
02/29/88	Kimberly-Clark Corporation	RD272-13188
02/29/88	Thos. & Jas. Harrison Ltd	RD272-13607
02/29/88	Statler Tissue Company	RD272-13913
02/29/88	Helmsley-Spear, Inc	RD272-13928
02/29/88	The West End Brewing Company	RD272-13973
02/29/88	Barrett Mobile Home	RD272-13994
02/29/88	Apcon Corporation	RD272-14010
02/29/88	Samson Management	RD272-14034
02/29/88	Internat'l Flavors & Fragrance	RD272-14036
02/29/88	Amstar Sugar Corporation	RD272-14141
02/29/88	H-K Contractors	RD272-14150
02/29/88	Thorson, Inc	RD272-14343
02/29/88	Scrivner, Inc	RD272-14537
02/29/88	Walker-Williams Lumber Co	RD272-14529
02/29/88	Carolina Freight Carriers Corp	RD272-14554
02/29/88	W. Hodgman & Sons	RD272-14575
02/29/88	Speedway Transportation	RD272-14593
02/29/88	C.W. Matthews Contracting	RD272-14608
02/29/88	NL Industries, Inc	RD272-14948
02/29/88	Compagnie Belge D'Affretemen	RD272-14968
02/29/88	Royal Caribbean Cruise Liner	RD272-14995
02/29/88	Wiscassett Mills Company	RD272-15061
02/29/88	The Tanner Companies	RD272-15068
02/29/88	J. R. Simplot Company	RD272-15267
02/29/88	Overseas Enterprises, Inc	RD272-15357
02/29/88	Constellation Line	RD272-15363
02/29/88	Buffalo Bituminous	RD272-15419
02/29/88	Thunderbird Motor Freight Line	RD272-15498
02/29/88	Genesee Leroy Stone Corporation	RD272-15509
02/29/88	Fenton Farms, Inc	RD272-15570
02/29/88	Marquette Transportation Company	RD272-15755
02/29/88	Blacktop Construction Company	RD272-15800
02/29/88	Mead Paper-Publishing Paper	RD272-15878
02/29/88	Admiral Cruises, Inc	RD272-15947
02/29/88	Liedtka Trucking, Inc	RD272-15999
02/29/88	Corn Construction Company	RD272-16007
02/29/88	Fraser Paper, Limited	RD272-16209
02/29/88	Collins & Aikman Corporation	RD272-16210
02/29/88	Lincoln Pulp & Paper Co., Inc	RD272-16285
02/29/88	Dosch-King Company	RD272-16291
02/29/88	Stepan Company	RD272-16338
02/29/88	J.E. Morgan Knitting Mills, Inc	RD272-16340
02/29/88	Brown Bakeries, Inc	RD272-16343
02/29/88	Great Salt Lake Minerals	RD272-16370
02/29/88	P & O Lines, Ltd	RD272-16374
02/29/88	Dunlop Tire Corporation	RD272-16583
02/29/88	Eastern Fine Paper, Inc	RD272-16591
02/29/88	Magic City Trucking Service	RD272-16638
02/29/88	Pfizer, Inc	RD272-16661
02/29/88	A. Teichert & Sons	RD272-16736
02/29/88	N-C Paving	RD272-16819
02/29/88	Lewis Brothers Bakeries, Inc	RD272-17079
02/29/88	Bauerly Bros., Inc	RD272-17251
02/29/88	Whirlpool Corporation	RD272-15977
02/29/88	Dresser Industries, Inc	RD272-15859
02/29/88	Bituminous Materials Company	RD272-15459

REFUND APPLICATIONS RECEIVED—Continued

[Week of February 26 to March 4, 1988]

Date Received	Name of Refund Proceeding/Name of Refund Applicant	Case No.
02/29/88	Westinghouse Electric	RD272-16739
02/29/88	American Standard, Inc	RD272-16177
02/29/88	Ethan Allen, Inc	RD272-16157
02/29/88	Cooper Tire & Rubber Company	RD272-10651
02/29/88	Chicago Pacific Corporation	RD272-16017
02/29/88	Edward M. Chadboune, Inc	RD272-17354
02/29/88	Coca Cola USA	RD272-17315
02/29/88	Gerald N. Stamp	RD272-17309
02/29/88	A. C. Widenhouse, Inc	RD272-8329
02/29/88	Thomaston Mills, Inc	RD272-8199
02/29/88	Austin Paving Company	RD272-8212
02/29/88	Warbird Transp. Inc	RD272-8334
02/29/88	Milford Management Corporation	RD272-8337
02/29/88	Iceland Steamship Co., Inc	RD272-8344
02/29/88	Rissler & McMurray Company	RD272-8737
02/29/88	Standard Products Co., Inc	RD272-8750
02/29/88	American Fructose Decatur, Inc	RD272-8865
02/29/88	Gulf States Asphalt	RD272-8868
02/29/88	C. S. McCrossan, Inc	RD272-9078
02/29/88	Stone Container Corporation	RD272-9294
02/29/88	Airborne Express, Inc	RD272-9331
02/29/88	Delta Woodside Industries, Inc	RD272-9616
02/29/88	Leif Hoegh & Company	RD272-9646
02/29/88	White's Mines, Inc	RD272-9881
02/29/88	Cascade Construction	RD272-9879
02/29/88	Hardrives, Inc	RD272-9880
02/29/88	W. H. Johns, Inc	RD272-9835
02/29/88	York Shipping Corporation	RD272-9883
02/29/88	The Upjohn Company	RD272-9891
02/29/88	Kuwait Maritime Corporation	RD272-9908
02/29/88	Colonia Motor Freightlines	RD272-9892
02/29/88	Mount Vernon Mills, Inc	RD272-9900
02/29/88	Fred Weber, Inc	RD272-9991
02/29/88	Owens-Corning Fiberglas	RD272-10027
02/29/88	CPC International, Inc	RD272-10163
02/29/88	Woods Management Company	RD272-10164
02/29/88	Simpson Paper Company	RD272-10168
02/29/88	Roseau Transport, Inc	RD272-10181
02/29/88	Bangladesh Shipping Corporation	RD272-10192
02/29/88	A. P. Green Refractories, Company	RD272-10456
02/29/88	Nekoosa Papers, Inc	RD272-10485
02/29/88	Fort Edward Express Co., Inc	RD272-10488
02/29/88	Pacific Steam Navigation Company	RD272-10502
02/29/88	Houlder Brothers & Company, Ltd	RD272-10503
02/29/88	Furness Withy (Chartering)	RD272-10504
02/29/88	Peter Kiewit Sons	RD272-10505
02/29/88	Winkles Trucks, Inc	RD272-10669
02/29/88	National Spinning Company, Inc	RD272-10777
02/29/88	Al Johnson Construction	RD272-10906
02/29/88	Carlisle Companies, Inc	RD272-11111
02/29/88	Interstate Container Corporation	RD272-11116
02/29/88	J. L. Healy Construction	RD272-11138
02/29/88	Uniroyal Holding, Inc	RD272-11140
02/29/88	Graniteville Company	RD272-11241
02/29/88	James River Corporation	RD272-11244
02/29/88	Nabisco Brands, Inc	RD272-11245
02/29/88	Brostrom Shipping Co., Ltd	RD272-11300
02/29/88	Dundee Mills, Inc	RD272-11454
02/29/88	A. Leander McAlister Trucking	RD272-11493
02/29/88	Henry S. Bristow	RD272-11690
02/29/88	Owens-Illinois	RD272-11705
02/29/88	Central Transport, Inc	RD272-11952
02/29/88	Lehman-Roberts Company	RD272-11977
02/29/88	Walnut Grove Products	RD272-12140
02/29/88	Wilson Freight & Strickland	RD272-12182
02/29/88	E. L. Murphy Trucking Company	RD272-12184
02/29/88	Boss-Linco Lines, Inc	RD272-12183
02/29/88	Sam Wood	RD272-12249
02/29/88	Champion International Corporation	RD272-12281

REFUND APPLICATIONS RECEIVED—Continued

[Week of February 26 to March 4, 1988]

Date Received	Name of Refund Proceeding/Name of Refund Applicant	Case No.
02/29/88	K & K Transport Corporation	RD272-12307
02/29/88	G. G. Parsons Trucking Company	RD272-11290
02/29/88	Duininck Companies	RD272-12349
02/29/88	Dean Foods Company	RD272-12577
02/29/88	Premark International	RD272-08625
02/29/88	United Technologies Corporation	RD272-09183
02/29/88	Arizona Electric Power	RD272-09358
02/29/88	Arch Mineral	RD272-09491
02/29/88	Ethyl Corporation	RD272-09658
02/29/88	Colowyo Coal Company	RD272-09955
02/29/88	Koppers Company, Incorporated	RD272-10162
02/29/88	J. M. Huber Corporation	RD272-10928
02/29/88	Trapper Mining Incorporated	RD272-11482
02/29/88	Mack Trucks, Incorporated	RD272-11984
02/29/88	Ohio Coal & Construction Corp	RD272-12126
02/29/88	Missouri Mining, Incorporated	RD272-12127
02/29/88	Deere & Company	RD272-13135
02/29/88	Liquid Carbonic Industries	RD272-13159
02/29/88	Ingersoll-Rand Company	RD272-13170
02/29/88	Kerite Company	RD272-13176
02/29/88	Pennwalt Corporation	RD272-13486
02/29/88	Scripps Howard	RD272-13524
02/29/88	Firestone Tire & Rubber Company	RD272-13927
02/29/88	Hallmark Cards	RD272-14135
02/29/88	Hanson Industries	RD272-15000
02/29/88	Advance Publications, Inc.	RD272-15364
02/29/88	Liggett & Myers Tobacco Company	RD272-15458
02/29/88	Ben Franklin Store, Inc	RD272-15494
02/29/88	Conwood Company	RD272-15118
02/29/88	Armstrong Tire Company	RD272-15953
02/29/88	Morton Thiokol Incorporated	RD272-16063
02/29/88	Hartz Mountain Corporation	RD272-16588
02/29/88	Kawneer Company, Inc	RD272-16752
02/29/88	National Standard Company	RD272-17314
02/29/88	Cyprus Yampa Valley Coal Company	RD272-17358
03/04/88	Cone Mills Corporation	RF299-80
05/05/86	Templin Oil Company	RF225-10995
01/19/88	Haney Oil Company	RF225-10996
01/19/88	Haney Oil Company	RF225-10997
01/19/88	Haney Oil Company	RF225-10998
01/19/88	Franklin County Oil Company	RF225-10999
01/19/88	Franklin County Oil Company	RF225-11000
01/19/88	Lunde Fuel & Oil Supply	RF225-11001
01/19/88	Lunde Fuel & Oil Supply	RF225-11002
01/19/88	Lunde Fuel & Oil Supply	RF225-11003
03/03/88	Chesapeake & Potomac Tel. Co	RF272-8718
03/03/88	Amax Copper, Inc	RF272-9615
03/03/88	Kennecott Corporation	RF272-12164

[FR Doc. 88-12172 Filed 5-31-88; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of February 29 Through March 4, 1988

During the week of February 29 through March 4, 1988, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Terranova, Seeger & Galeziowski, 3/2/88, KFA-0163

The DOE issued a Decision and Order granting Appellant Terranova, Seeger and Galeziowski's appeal from a denial of a Freedom of a Information Act request issued to it by the Idaho Operations Office (Idaho). That determination stated that the requested documents are not contained in the files at Idaho. Because the original request stated Appellant's belief that the documents are contained in the files at the Oak Ridge Operations Office (Oak Ridge), the matter was referred to the Freedom of Information Office at Oak Ridge.

Remedial Order

Elk Trading Company and Neal Davis, 2/29/88, HRO-0286

Elk Trading Company (Elk) and Neal Davis (Davis) objected to a PRO issued jointly to them by the Economic Regulatory Administration (ERA) on March 11, 1985. After considering the respondents' objections, the DOE found that the firm had violated the layering regulations set forth in 10 CFR 212.186 by reselling crude oil at increased prices

without providing the services traditionally and historically associated with the resale of crude oil. In addition, the DOE found Neal Davis personally liable for the overcharges, because he conducted, directed and controlled Elk and personally benefitted from the layered transactions. Accordingly, the DOE concluded that the Proposed Remedial Order should be issued as a final order and directed Elk and Davis to remit $11,473,148.92, plus interest, to the DOE.

Interlocutory Order

Economic Regulatory Administration, Kenneth Walker, Southwestern States Marketing Corp., 3/388, KRZ-0071, KRR-0034, KRZ-0072, KRZ-0070, KRZ-0068, KRZ-0074, KRX-0041, and KRX-0042

The Office of Hearings and Appeals issued a consolidated decision ruling on a number of motions that had been filed by the Economic Regulatory Administration, Kenneth Walker and Southwestern States Marketing Corp. in an enforcement proceeding based on a Proposed Remedial Order issued jointly to Walker and Southwestern States. After disposing of a number of minor procedural motions, OHA analyzed the voluminous documentary evidence Walker had submitted in support of his contention that he should not be held personally liable for any overcharges allegedly caused by Southwestern States. Walker maintained that the evidence showed that he was not the "central figure" involved in the alleged overcharges. OHA concluded that Walker's documentary evidence failed to rebut the *prima facie* case established by the ERA. However, OHA determined that there was a factual dispute on certain aspects of the nature of Walker's role in the firm during the audit period. The OHA ordered, *sua sponte*, that an evidentiary hearing be convened at which Walker could testify concerning the factual dispute about the nature of his role in Southwestern's crude oil reselling activities, and whether he was the "central figure" as alleged in the PRO. Provision was also made for the presentation of oral arguments on the other contested issue at the conclusion of the evidentiary hearing.

Refund Applications

A.F. Rodrigues Orchard, et al., 3/1/88, RF272-2158, et al.

The DOE issued a Decision and Order approving 33 Applications for Refund from crude oil overcharge funds. The 33 claimants were farmers who used either contemporaneous records or the USDA formula to derive the number of gallons of petroleum products they used during the period August 19, 1973 through January 27, 1981. Because the claimants relied on the end-user presumption, they were not required to demonstrate injury. A total of $645 was approved in this Decision and Order.

Brown Trucking Co. et al., 3/1/88, RF272-6, et al.

The DOE issued a Decision and Order granting refunds to 45 claimants who filed Applications for Refund under OHA's Subpart V crude oil overcharge refund proceedings. Each applicant provided evidence of the volume of refined petroleum products that it purchased during the period August 19, 1973 through January 27, 1981. As end-users of petroleum products, the claimants were presumed to have been injured as a result of the crude oil overcharges. The refunds granted totalled $14,021.

C.L. Richardson, et al., 3/4/88, RF272-2155, et al.

The DOE issued a Decision and Order approving 4 Applications for Refund from crude oil overcharge funds. The 4 claimants were farmers who used different USDA formula (gallons/acre/year) to derive the number of gallons of petroleum products they used to cultivate various crops during the period August 19, 1973 through January 27, 1981. Because the claimants relied on the end-user presumption, they were not required to demonstrate injury. A total of $57 was approved in this Decision and Order.

Charles Butterfield et al., 2/29/88, RF272-4856, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 50 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant used the products for various agricultural activities, and each calculated its claim either by consulting actual purchase records or by estimating its consumption based on the acres it farmed. Each applicant was an end-user of the petroleum products it claimed, and therefore was presumed injured. The sum of the refunds granted in this Decision is $950. All of the claimants will be eligible for additional refunds as additional crude oil overcharge funds become available.

Getty Oil Company/Harold's Skelly, et al., 3/3/88, RF265-1905, et al.

The DOE issued a Decision and Order concerning 23 Applications for Refund filed by resellers, retailers and end-users of products covered by a Consent Order that the DOE entered with Getty Oil Company. Each applicant submitted information indicating the volume of Getty jobbers/distributors during the consent order period. In 20 of these cases, the applicants were eligible for a claim below the $5,000 threshold. In the remaining three cases, the applicants elected to limit their claims to $5,000. The sum of the refunds approved in this Decision is $71,370, representing $35,213 in principal and $36,157 in accrued interest.

Getty Oil Company/Sheet's Getty, et al., 3/3/88, RF265-1174, et al.

The DOE issued a Decision and Order concerning 50 Applications for Refund filed by resellers or retailers of products covered by a Consent Order that the DOE entered with Getty Oil Company. Each applicant submitted information indicating the volume of Getty refined petroleum products that were indirectly purchased from Getty jobbers/distributors during the consent order period. In 48 of these cases, the applicants were eligible for a claim below the $5,000 threshold. In the remaining two cases, the applicant elected to limit its claim to $5,000. The sum of the refunds approved in this Decision is $132,333, representing $65,290 in principal and $67,043 in accrued interest.

Harold Ritter, et al., 3/1/88, RF272-4250, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 45 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant used the products for various agricultural activities, and each calculated its claim by estimating its consumption based on the acres it farmed utilizing the USDA's national average of 23.8 gallons/acre/year of petroleum. Each applicant was an end-user of the products, and therefore is presumed to have been injured. The sum of the refunds granted in this determination is $1,134.

Hill House Apartments et al., 2/29/88, RF272-4869, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 26 apartment buildings based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant was an end-user of petroleum products, and calculated its claim either by consulting actual purchase records or by estimating its consumption based on

annual usuage or partial records. As end-users, each applicant was presumed injured. The sum of the refunds granted in this Decision is $4,505. All of the claimants will be eligible for additional refunds as additional crude oil overcharge funds become eligible.

Larry L. Gee, et al., 3/3/88, RF272–3326, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 49 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant used the products for various agricultural activities, and each determined its claim by estimating its consumption based on the acres it farmed. Each applicant was an end-user of the products it claimed, and therefore was presumed injured by the DOE. The sum of the refunds granted in this Decision is $941. All of the claimants will be eligible for additional refunds as additional crude oil overcharge funds become available.

Lawrence R. Hlad, et al., 3/1/88, RF272–3810, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 31 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant used the products for various agricultural activities, and each determined its claim either by consulting actual purchase records or by estimating its consumption based on the acres it farmed. Each applicant was an end-user of the products it claimed, and therefore was presumed injured by the DOE. The sum of the refunds granted in this Decision is $1,971.

Marathon Petroleum Co./John H. White, 3/3/88, RF250–2456, RF250–2457

The DOE issued a Decision and Order concerning two Applications for Refund from the Marathon Petroleum Company consent order fund filed by John H. White d/b/a Port Oil Company. White, a reseller of Marathon motor gasoline and middle distillates, elected to file its refund applications based upon the 35 percent presumption of injury methodology set forth in the order implementing procedures for disbursing the Marathon fund. Because White sold its operations to Marathon in April 1979, it was eligible for a refund based only on its purchases of Marathon product prior to that time. The total refund granted was $55,068, representing $47,985 in principal and $7,083 in interest.

Mobil Oil Corp./Featherstone Service Station, Inc., Kenneth W. Boyd, Gas 'N Save, Inc., 3/3/88, RF225–9216, RF225–9217, RF225–9377, RF225–9378, RF225–9379, RF225–9380, RF225–10860, RF225–10977, RF225–10978,

The DOE issued a Decision and Order granting three Applications for Refund from the Mobil Oil Corporation escrow account filed by resellers of Mobil refined petroleum products. In the Mobil proceeding, applicants may choose to either rely on the presumptions set forth in *Mobil Oil Corp.*, 13 DOE ¶85,339 (1985) (*Mobil*), or they may choose to submit documentation demonstrating that they were injured to a greater extent than the average reseller. In the cases of the three claimants, each elected to submit additional documentation in an effort to demonstrate injury. The DOE, however, did not accept the approximated banks of unrecouped increased product costs submitted by the firms, finding that the annual data underlying these banks was inadequate. In *Mobil*, however, applicants who are unable to rebut the presumptions of injury and who do not conclusively demonstrate that they were injured are still eligible for a refund. The DOE therefore reviewed the present applications to insure that all necessary information had been provided for a refund under the level-of-distribution presumption, and found that it was. Accordingly, the three Applications for Refund were granted. The total amount approved in the Decision and Order was $11,218, representing $8,965 in principal plus $2,163 in interest.

Mobil Oil Corp./Peninsula Fuel Company, 3/2/88, RF225–10963

The DOE issued a Decision and Order approving a refund application in the Mobil Oil Corporation special refund proceeding filed by Peninsula Fuel Company, a reseller of Mobil middle distillates during the consent order period. OHA adjusted Peninsula's claim to exclude the gallons of middle distillates it purchased after the decontrol date of that product. In accordance with the procedures outlined in the *Mobil Oil Corporation*, 13 DOE ¶85,339 (1985), the OHA determined that Peninsula should receive a refund totalling $2,619 ($2,110 in principal plus $509 in accrued interest).

Norbert Robben et al., 3/1/88, RF272–5270, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 15 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant used the products for various agricultural activities. Each applicant determined its volume claim either by utilizing actual purchase records from the crude oil price control period or by estimating its petroleum consumption during that period based on the acres it farmed. Each applicant was an end-user of the products it claimed and was therefore found injured based upon the end-user presumption of injury. The sum of the refunds granted in this Decision is $755.

Our Own Hardware et al., 3/2/88, RF272–4496, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 9 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant used the products for various agricultural activities or in operating small businesses. Each applicant determined its volume claim either by utilizing actual purchase records from the crude oil price control period or by estimating its petroleum consumption during that period. Each applicant was an end-user of the products it claimed, and therefore was found injured based upon the end-user presumption of injury. The sum of the refunds granted in this Decision is $232.

Phillips Brothers et al., 3/4/88, RF272–4726, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 44 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant used the products for various agricultural activities, and calculated its claim either by consulting actual purchase records or by estimating its consumption based on the acres it farmed. Each applicant was an end-user of the products it claimed and therefore was found injured based upon the end-user presumption of injury. The sum of the refunds granted in this Decision is $1,454.

Roger Kratzke, et al., 3/3/88, RF272–3864, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 31 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant used the products for various agricultural activities, and calculated its claim either by consulting actual purchase records or by estimating its consumption based on the acres it

farmed. Each applicant was an end-user of the products it claimed, and therefore was found injured based upon the end-user presumption of injury. The sum of the refunds granted in this Decision is $1,244.

Standard Oil Co. (Indiana)/North Carolina, 3/2/88, RQ251–416

The DOE issued a Decision and Order regarding an Application for Refund in the Standard Oil Co. (Indiana) (*Amoco II*) second-stage refund proceeding filed by the State of North Carolina. In its application, North Carolina proposed to spend $540,000 of its Amoco monies on three programs: An advertising program designed to promote the State's fuel oil tune-up rebate program; a plan to produce 30,000 information packets on fuel-efficient driving for distribution at car care clinics; and a program of workshops, seminars, and technical assistance to improve the fuel-efficiency of farm machinery on North Carolina farms. In reviewing North Carolina's proposed plan, the DOE found that each program proposed by the State was restitutionary in that it would either promote energy conservation or reduce energy costs to injured consumers of petroleum products, or both. Accordingly, North Carolina was granted $540,000 ($482,143 principal plus $57,857 interest) in *Amoco II* monies for the programs.

Standard Oil Co. (Indiana)/Rosebud Sioux Tribe, 3/2/88, RQ21–432

The DOE issued a Decision regarding a second-stage refund application filed by the Rosebud Sioux Tribe in the Standard Oil Co. (Indiana) (Amoco) second-stage refund proceeding. In its application, the Rosebud Sioux Tribe proposed to spend Amoco monies to supplement its Low Income Home Energy Assistance Program. The DOE determined that the Tribe's proposed plan would provide restitution to tribal members injured in their purchases of refined petroleum products during the period of price controls. Accordingly, the DOE granted the Rosebud Sioux Tribe a refund of $3,080 from the Standard Oil Co. (Indiana) escrow account.

Wayne Corporation, 3/4/88, RF272–1265

The DOE issued a Decision and Order granting an Application for Refund from crude oil overcharge funds based on the applicant's purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981 (the Settlement Period). To estimate its purchase volume between 1973 and 1977, the applicant extrapolated from actual purchase data that was available for the years 1978 through 1981. The refund granted in this Decision is $356.

Dismissals

The following submissions were dismissed:

Name	Case No.
B.C. Shuchart, Inc	RF225–1000
L.J. Novak Oil Co	RF225–10211
McCall Oil & Chemical Corp	RF252–1
Middletown Oil Co	RF225–10975, RF225–10976
Reliable Fuel Supply Co	RF225–10023
Scoby Ratcliff, d/b/a Middletown Oil Co..	RF263–37

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

May 24, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 88–12173 Filed 5–31–88; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of March 7 Through March 11, 1988

During the week of March 7 through March 11, 1988, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

U.S. West Information Systems, 3/11/88, KFA–016

U.S. West Information Systems filed an Appeal from a partial denial by the Freedom of Information Officer of the Idaho Operations Office of a Request for Information Act. In considering the Appeal, the DOE found that an adequate search had been made and that the documents sought do not exist.

Petition for Special Redress

Texas, 3/7/88, KEG–0036

The DOE issued a Decision and Order concerning a Petition for Special Redress submitted by the State of Texas. The State sought permission to use Stripper Well monies for a project which the DOE's Assistant Secretary for Conservation and Renewable Energy had held to be inconsistent with the terms of the Stripper Well Settlement Agreement. The DOE disapproved Texas' proposal to use 3.9 million to conduct research supporting Texas' bid to have the Super Conducting Supercollider (SSC) located in Texas. In reaching this determination, the DOE found that Texas should not be permitted to use Stripper Well funds for SSC site research, because site research would not yield energy-related benefits for injured Texans, and because Stripper well funds should not be used for advocacy purposes. Accordingly, Texas' Petition for Special Redress was denied.

Motion for discovery

LaJet, Inc., et al., Economic Regulatory Administration, 3/10/88, KRD–0470, KRD–0471

LaJet, Inc. (LaJet), LaJet Petroleum Company (LPC) and Texas Napco, Inc. (Texas Napco) filed a Motion for Discovery in connection with their Statement of Objections to the Proposed Remedial Order (PRO) which the Economic Regulatory Administration (ERA) issued to them on January 22, 1987. The DOE denied the respondents' request for information contained in OHA proceedings involving Kern County Refinery, Inc., based on the fact that the requested material had not been shown to be relevant. The DOE also denied the respondents access to documents pertaining to an affidavit of Neal Myers, President of Mellon Energy Products Company, which was used by the ERA to support the findings made in the PRO. The DOE found that the respondents had not demonstrated that there was a compelling need to probe the deliberative processes of agency officials involved in the preparation of the affidavit. The DOE rejected as unnecessary the respondents request for additional materials explaining the PRO's calculations of overcharges. The respondents' requests for contemporaneous construction discovery of 10 CFR 211.67 (e) and (d), and § 205.202 were denied on the grounds that they had not demonstrated that these regulations were so ambiguous that this discovery was relevant and necessary. Accordingly, respondents' Motion for Discovery was denied.

The DOE also denied a Motion for Discovery submitted by the ERA. If found that the ERA had already established by a preponderance of the evidence that LPC continued LaJet's

refining business. It therefore concluded that it was not necessary to grant the ERA discovery on this issue.

Refund Application

Apco Oil Corp./Two States Petroleum Co., Inc., 3/10/88, RF83–131

The DOE issued a Decision and Order concerning an Application for Refund filed by Two States Petroleum Company, Inc. Two States, a motor gasoline and distillate fuel oil reseller, sought a portion of the settlement fund obtained by the DOE through a consent ordered entered into with Apco Oil Corporation. The DOE granted Two States a refund of $8,915, representing $5,743 in principal plus $3,172 in interest, based upon the firm's motor gasoline purchases. That portion of Two States' claim which was based upon its distillate fuel oil purchases was denied, because it was not supported by a demonstration of injury.

Daughterty Coal Company, Inc., 3/8/88, RF272–3259

The DOE issued a Decision and Order granting an Application for Refund from crude oil overcharge funds. The applicant was a coal mining company that used fuel invoices to determine the amount of petroleum products it purchased during the period August 19, 1973 through January 27, 1981. As an end-user, the applicant was entitled to receive a refund of its full volumetric share. The refund granted in this Decision is $590.

Fred Potteiger, et al., 3/10/88, RF272–5529, et al.

The DOE issued a Decision and Order granting refunds to 50 claimants that filed Applications for Refund in OHA's Subpart crude oil overcharge refund proceedings. Each applicant provided evidence of the volume of refined petroleum products it purchased during the period August 19, 1973 through January 27, 1981. As agricultural end-users of petroleum products, all the claimants were presumed have been injured as a result of the overcharges. The refunds granted totalled $1,675.

George Verhoeven Feed Co., 3/9/88, RF272–907

The DOE issued a Decision and Order granting an Application for Refund from crude oil overcharge funds based on the applicant's purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981 (the settlement period). To estimate its fuel purchase volume, the Applicant divided its mileage figure for the settlement period by a fuel efficiency estimate of 5 miles per gallon for its trucks and 15 miles per gallon for its automobiles. The refund granted in this Decision is $174.

Getty Oil Company/Howell Oil Company, 3/10/88, RF265–1031, RF265–1032

The DOE issued a Decision and Order concerning two Applications for Refund filed by a firm that operated as a consignee agent of Getty motor gasoline and middle distillates during the consent order period. OHA determined that the applicant demonstrated that it experienced a decline in its market share for motor gasoline/middle distillates and therefore was injured by Getty's actions. The total refund approved in this Decision is $730, representing $360 in principal and $370 in accrued interest.

Getty Oil Company/Utica & I Service Station, et al., 3/08/88, RF265–756, et al.

The DOE issued a Decision and Order concerning 14 Applications for Refund filed by resellers and retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In one of these cases, the applicant was eligible for a claim below the $5,000 small claims threshold. In the remaining 13 cases, the applicants elected to limit their claims to $5,000. The sum of the refunds approved in this Decision is $73,198, representing $36,114 in principal and $37,084 in accrued interest.

Good Hope Refineries/Kent Oil & Trading Company, Good Hope Refineries/Apex Oil Company, Saber Energy, Inc./Apex Oil Company, Saber Energy, Inc./ Gulf States Oil & Refining, 3/9/88, RF189–22, RF189–15, RF192–15, RF192–19

The DOE issued a Decision and Order concerning four Applications for Refund in the Good Hope Refineries and Saber Energy, Inc. special refund proceedings. All the applicants were spot purchasers from either one or both of the consent order firms. After examining the evidence and supporting documentation, the DOE concluded that all the applicants had failed to refute the presumption that spot purchasers were not injured by the alleged violations of the consent order firms. Accordingly, all four applications were denied.

Leon Dewindt, et al., 3/8/88, RF272–4251, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 49 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant used the products for various agricultural activities, and each calculated its claim by estimating its consumption based on local fuel supplier records or sales receipts. Each applicant was an end-user of the products and therefore is presumed to have been injured. The sum of the refunds granted in this determination is $922.

M.W. McKie, et al., 3/8/88, RF272–5286 et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 49 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant used the products for various agricultural activities or in operating small businesses. Each applicant calculated its volume claim either by consulting actual purchase records or consumption records or by estimating its consumption based on the acres it farmed. Each applicant was an end-user of the products it claimed, and therefore was found injured based upon the end-user presumption injury. The sum of the refunds granted in this Decision is $2,761.

Mobil Oil Corporation/A. Tarricone, Inc., et al., 3/7/88, RF225–5762 et al.

The DOE issued a Decision granting 15 Applications for Refund filed by retailers and resellers of Mobil refined petroleum products from the Mobil Oil Corporation escrow account. Each applicant elected to apply for a refund based upon the presumptions set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $29,663 ($23,893 in principal plus $5,770 interest).

Mobil Oil Corporation/Cove Oil Supply Corp., 3/7/88, RF225–6777, RF225–6780

The DOE issued a Decision granting two Applications for Refund from the Mobil Oil Corporation escrow account filed by Cove Oil Supply Corp. (Cove Oil), a retailer and reseller of Mobil refined petroleum products. Cove Oil elected to limit its claim to the $5,000 small claims threshold as set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $6,206 (representing $5,000 in principal plus $1,206 in interest).

Mobil Oil Corporation/E.F. Hall Distributing Co., et al., 3/7/88, RF225–9061, et al.

The DOE issued a Decision granting 15 Applications for Refund from the Mobil Oil Corporation escrow account

filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $20,306 ($16,402 principal plus $3,958 interest).

Mobil Oil Corp./Herzog & Hopkins, Inc., 3/7/88, RF225–145

The DOE issued a Decision and Order approving a refund application in the Mobil Oil Corporation special refund proceeding filed by Mark S. Hopkins on behalf of Herzog & Hopkins, Inc., a reseller of No. 2 Fuel Oil. Although Mr. Hopkins has since sold his firm, the OHA found that his right to this refund was not among the assets transferred in the sale. Mr. Hopkins elected to limit his claim to the $5,000 presumption of injury level. Therefore, in accordance with the procedures outlined in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985), Mr. Hopkins was granted a refund totalling $6,206 ($5,000 in principal plus $1,206 in accrued interest).

Mobil Oil Corporation/J.M. Wiggins, et al., 3/7/88, RF252789, et al.

The DOE issued a Decision granting eight Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $42,429 ($34,183 in principal plus $8,246 in interest).

Mobil Oil Corp./NGL Supply, Inc., 3/8/88, RF225–10749

The DOE issued a Decision and Order granting, in part, an Application for Refund filed on behalf of NGL Supply, Inc. in the Mobil Oil Corp. refund proceeding. The DOE first determined that NGL Supply's purchases of butane from Mobil were spot purchases and therefore do not qualify for refund. In reaching that conclusion, the DOE rejected arguments raised by NGL Supply that the DOE has previously granted refunds in similar cases and that the DOE should consider its application on the basis of NGL Supply's overall business relationship with Mobil, not on a product-by-product basis. The DOE rejected that argument. The DOE, however, approved a refund based upon NGL Supply's purchases of propane and natural gasoline in the amount of $5,203 ($4,192 in principal and $1,011 in interest).

Mobil Oil Corporation/Walter Davenport Son, Inc., 3/7/88, RF225–9819–RF225–9823

The DOE issued a Decision granting five Applications for Refund from the Mobil Oil Corporation escrow account filed by Walter Davenport Son, Inc. (Davenport), a retailer and reseller of Mobil refined petroleum products. Davenport elected to limit its claim to the $5,000 small claims threshold as set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $6,206 (representing $5,000 in principal plus $1,206 in interest).

Parker's Texaco, 3/10/88, RF275–1069

The DOE issued a Decision and Order denying Parker's Application for Refund from crude oil overcharge funds. Parker's was a gasoline retailer during the period August 19, 1973 through January 27, 1981. Because Parker's did not demonstrate that it was injured due to the crude oil overcharges, it was ineligible for a crude oil refund.

Plusa, Inc., et al., 3/10/88, RF272–828, et al.

The DOE issued a Decision and Order granting 10 Applications for Refund filed in connection with the Subpart V crude oil refund proceeding. Each applicant purchased refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant determined the volume of its fuel purchases by consulting actual purchase records. As an end-user, each applicant was entitled to receive a refund of its full volumetric share. The sum of the refunds granted in this Decision is $3,978.

Suburban Propane Gas Corporation, Hy-Grade Oil Company, 3/10/88, RF299–12

The DOE issued a Decision granting an Application for Refund from the Suburban Propane Gas Corporation escrow account filed by Hy-Grade Oil Company, a retailer of Suburban propane. The firm elected to apply for a refund based upon the presumptions set forth in *Suburban Propane Gas Corporation*, 16 DOE ¶ 85,382 (1987). The DOE granted Hy-Grade a refund of $169 (representing $151 in principal and $18 in interest).

Sylvester Stauber, et al., 3/9/88, RF272–2809, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 50 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant used the products for various agricultural activities. Each applicant determined its claim either by consulting actual purchase records or by estimating its consumption based on the acres it farmed. Each applicant was an end-user of the products it claimed, and therefore was presumed injured by the DOE. The sum of the refunds granted in this Decision is $734.

Velma J. Uhl., et al., 3/8/88, RF272–4626, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 38 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant used various actual records and/or conservative estimates to report their gallonage claims. Each applicant was an end-user of the products it claimed and therefore was presumed injured. The sum of the refunds granted in this Decision is $6,036. All of the claimants will be eligible for additional refunds as additional crude oil overcharge funds become available.

Woodrow Beck et al., 3/9/88, RF272–559, et al.

The DOE issued a Decision and Order granting refunds to 50 claimants that filed Applications for Refund under OHA's Subpart V crude oil overcharge refund proceedings. Each applicant provided evidence of the volume of refined petroleum products that it purchased during the period August 19, 1973 through January 27, 1981. As an agricultural end-user of petroleum products, each claimant was presumed to have been injured as a result of the crude oil overcharges. The refunds granted totalled $1,485.

Dismissals

The following submissions were dismissed:

Name	Case No.
Bay Valley Oil Co	RF225–9078
Brown Construction Co	RF272–24054
City of Daytona Beach Shores	RF272–18414
Conlee Oil Co	RF225–9670
Glenview Mobil Service	RF225–9545
Kimberly-Clark Corp	RF272–13188
McCracken County Board of Education.	RF272–20347
Superior Oil Co. of Muskegon	RF225–9837, RF225–9838
Wenatchee Petroleum Co	RF225–9815

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585,

Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

May 24, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 88-12174 Filed 5-31-88; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-3389-a]

Control of Air Pollution from New Motor Vehicle Engines; Federal Certification Test Results for 1988 Model Year

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Section 206(e) of the Clean Air Act, as amended August 1977, directs the Administrator of the Environmental Protection Agency to announce in the **Federal Register** the availability of the results of certification tests. These tests are conducted on new motor vehicles and new motor vehicle engines to determine vehicles/engines' conformity with Federal standards for the control of air pollution caused by motor vehicles. The Federal Certification Test Results for the 1988 model year are now available and may be obtained by writing: U.S. Environmental Protection Agency, Office of Mobile Sources, Certification Division, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

FOR FURTHER INFORMATION CONTACT: Melinda Shaffer, Certification Division, U.S. Environmental Protection Agency, Office of Mobile Sources, Certification Division, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313) 668-4266.

Dated: May 25, 1988.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 88-12199 Filed 5-31-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180779; FRL-3386-7]

Emergency Exemptions; Harmony, etc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 18 States listed below and two crisis exemptions initiated by the Florida Department of Agriculture and Consumer Service and the Washington Department of Agriculture. Also listed are two denials from EPA of requests for specific exemptions from the California Department of Food and Agriculture and Mississippi Department of Agriculture. These exemptions, issued during the months of February and March, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific or crisis exemption for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons:

By mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM# 2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arkansas State Plant Board for the use of Harmony on wheat to control wild garlic; February 4, 1988, to April 15, 1988. (Robert Forrest)

2. California Department of Food and Agriculture for the use of triadimefon on tomatoes to control powdery mildew; March 1, 1988, to February 28, 1989. (Jim Tompkins)

3. Delaware Department of Agriculture for the use of sodium fluoaluminate on potatoes to control Colorado potato beetles; March 10, 1988, to September 15, 1988. (Gene Asbury)

4. Delaware Department of Agriculture for the use imazethapyr (Pursuit) on snap beans and lima beans to control weeds; March 16, 1988, to September 30, 1988. Since Pursuit contains an active ingredient which is not yet registered by the Agency, a notice of receipt was published in the **Federal Register** of February 24, 1988 (53 FR 5465); no comments were received. This exemption was granted on the basis that no registered alternatives can provide adequate control, conditions for an emergency exist, available data show that the use is toxicologically supported, and the use is not expected to adversely affect any endangered or threatened species. (Robert Forrest)

5. Delaware Department of Agriculture for the use of imazethapyr (Pursuit) on green peas to control weeds; March 16, 1988, to September 30, 1988. Since Pursuit contains an active ingredient which is not yet registered by the Agency, a notice of receipt was published in the **Federal Register** of February 24, 1988 (53 FR 5465), no comments were received. This exemption was granted on the basis that no registered alternatives can provide adequate control, conditions for an emergency exist, available data show that the use is toxicologically supported, and the use is not expected to adversely affect any endangered or threatened species. (Robert Forrest)

6. Florida Department of Agriculture and Consumer Services for the use of thiophanate-methyl on potatoes to control *Sclerotinia sclerotiorum* (white mold); March 16, 1988, to March 31, 1988. A Special Review Document notice was published in the **Federal Register** of October 20, 1982 (47 FR 46747). A notice of receipt for solicitation of public comment was published in the **Federal Register** of February 18, 1988, no comments were received. This exemption was authorized on the following basis:

a. There are no registered alternative pesticides which will provide adequate control of this pest on potatoes.

b. A significant economic loss may result if an effective pesticide is not made available. This loss may be as great as $4,000,000.

c. Residues of thiophanate-methyl, its oxygen analogue, and its benzimidazole containing metabolites will not exceed 0.2 ppm in or on potatoes. This Agency has determined that this level is adequate to protect the public health.

d. The proposed use should not pose an unreasonable hazard to the environment. (Libby Pemberton)

7. Florida Department of Agriculture and Consumer Services for the use of cyromazine on tomatoes grown for the fresh fruit maket to control leafminers; March 17, 1988, to December 31, 1988. (Donald Stubbs)

8. Florida Department of Agriculture and Consumer Services for the use of paraquat on peanuts to control Florida beggarweed and sicklepod; March 25, 1988, to August 1, 1988. (Gene Asbury)

9. Georgia Department of Agriculture for the use of paraquat on peanuts to control Florida beggarweed and sicklepod; March 25, 1988, to August 1, 1988. (Gene Asbury)

10. Idaho Department of Agriculture for the use of Harmony on wheat and barley to control weeds; March 25, 1988, to May 1, 1988. (Robert Forrest)

11. Idaho Department of Agriculture for the use of dinoseb on dry peas, chickpeas, and lentils to control broadleaf weeds; March 14, 1988, to July 15, 1988, or upon issuance of an order concluding the dinoseb cancellation. The Administrator suspended all uses of dinoseb on October 7, 1986. Subpart D hearings were held with respect to the above uses in 1987, and the Administrator modified his suspension order to allow these uses under section 18 of FIFRA.

A notice of receipt for solicitation of public comment was published in the **Federal Register** of February 18, 1988 (53 FR 4885). Two comments were received, one in favor of the uses and the other against. Both were taken into consideration during the review of these requests.

The Agency authorized these uses of dinoseb on the basis that an emergency situation existed with respect to broadleaf weeds in dry peas, chickpeas, and lentils. In accordance with Subpart D Hearings held in 1987, the Agency found that the benefits of these uses outweighed the potential risks. (Donald Stubbs)

12. Kentucky Department of Agriculture for the use of Harmony on wheat to control wild garlic; February 5, 1988, to April 30, 1988. (Robert Forrest)

13. Massachusetts Department of Food and Agriculture for the use of metalaxyl on cranberries to control *Phytopthora cinnamomic;* March 11, 1988, to December 1, 1988. (Robert Forrest)

14. Montana Department of Agriculture for the use of fenvalerate on small grains (barley, oats, and wheat) to control pale western and army cutworms; March 23, 1988, to June 30, 1988. (Gene Asbury)

15. Mississippi Department of Agriculture and Commerce for the use of Harmony on wheat to control wild garlic; February 5, 1988, to April 1, 1988. (Robert Forrest)

16. Missouri Department of Agriculture for the use of Harmony on wheat to control wild garlic; March 3, 1988, to August 31, 1988. (Robert Forrest)

17. New Jersey Department of Environmental Protection for the use of imazethapyr on green peas to control weeds; March 18, 1988, to July 1, 1988. (Robert Forrest)

18. New Jersey Department of Environmental Protection for the use of imazethapyr on snap beans and lima beans to control weeds; March 22, 1988, to July 30, 1988. (Robert Forrest)

19. Oregon Department of Agriculture for the use of dinoseb on dry peas, chickpeas, and lentils to control broadleaf weeds; March 14, 1988, to July 15, 1988, or upon issuance of an order concluding the dinoseb cancellation. The Administrator suspended all uses of dinoseb on October 7, 1986. Subpart D hearings were held with respect to the above uses in 1987, and the Administrator modified his suspension order to allow these uses under section 18 of FIFRA.

A notice of receipt for solicitation of public comment was published in the **Federal Register** of February 18, 1988 (53 FR 4885). Two comments were received, one in favor of the uses and the other against. Both were taken into consideration during the review of these requests.

The Agency authorized these uses of dinoseb on the basis that an emergency situation existed with respect to broadleaf weeds in dry peas, chickpeas, and lentils. In accordance with Suppart D Hearings held in 1987, the Agency found that the benefits of these uses outweighed the potential risks. (Donald Stubbs)

20. Oregon Department of Agriculture for the use of Harmony on wheat and barley to control weeds; March 25, 1988, to June 1, 1988. (Robert Forrest)

21. South Carolina, Clemson University, College of Agricultural Sciences for the use of Harmony on wheat and barley to control wild garlic; February 5, 1988, to April 10, 1988. (Robert Forrest)

22. South Carolina, Clemson University, College of Agricultural Sciences, for the use of paraquat on peanuts to control Florida beggarweed and sicklepod; March 25, 1988, to August 1, 1988. (Gene Asbury)

23. South Carolina, Clemson University, College of Agricultural Sciences, for use of acephate on tomatoes grown for the fresh market to control stinkbugs; March 4, 1988, to July 31, 1988. (Donald Stubbs)

24. Tennessee Department of Agriculture for the use of Harmony on wheat to control wild garlic; March 10, 1988, to April 15, 1988. (Robert Forrest)

25. Virginia Department of Agriculture and Consumer Services for the use of sodium fluoaluminate on potatoes to control Colorado potato beetles; March 10, 1988, to August 31, 1988. (Gene Asbury)

26. Washington Department of Agriculture for the use of dinoseb on dry peas, chickpeas, and lentils to control broadleaf weeds; March 14, 1988, to July 15, 1988, or upon issuance of an order concluding the dinoseb cancellation. The Administrator suspended all uses of dinoseb on October 7, 1986. Subpart D hearings were held with respect to the above uses in 1987, and the Administrator modified his suspension order to allow these uses under section 18 of FIFRA.

A notice of receipt for solicitation of public comment was published in the **Federal Register** of February 18, 1988 (53 FR 4885). Two comments were received, one in favor of the uses and the other against. Both were taken into consideration during the review of these requests.

The Agency authorized these uses of dinoseb on the basis that an emergency situation existed with respect to broadleaf weeds in dry peas, chickpeas, and lentils. In accordance with Subpart D Hearings held in 1987, the Agency found that the benefits of these uses outweighed the potential risks. (Donald Stubbs)

27. Washington Department of Agriculture for the use of Harmony on wheat and barley to control weeds; March 25, 1988, to June 1, 1988. (Robert Forrest)

28. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of Fluazifop-p-butyl on mint to control annual and perennial grasses; March 25, 1988, to June 15, 1988. (Libby Pemberton)

29. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of fluazifop-p-butyl on celery to control annual and perennial grasses; March 16, 1988, to September 1, 1988. (Libby Pemberton)

30. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of mancozeb on ginseng to control *Phytophthora cactorum* and *Alternaria panax;* March 8, 1988, to April 30, 1988. A Decision Document announcing the initiation of a Special Review for ethylene bisdithiocarbamate (EBDC) pesticides which includes mancozeb was published in the **Federal Register** of July 17, 1987 (52 FR 27172). The Registration Standard for mancozeb was issued in April 1987. The Registration Standard outlines data to be required by the Agency. A notice of solicitation of public comment was published in the **Federal Register** of February 10, 1988 (53 FR 3938). Six comments were received, and all favored the issuance of this section 18. (Robert Forrest)

31. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of metalaxyl on ginseng to control root rot; February 23, 1988, to August 30, 1988. (Robert Forrest)

Crisis exemptions were initiated by the:

1. Florida Department of Agriculture and Consumer Service on February 11, 1988, for iprodione on cabbage to control

Sclerotinia sclerotiorum. This program has ended. (Libby Pemberton)

2. Washington Department of Agriculture on March 8, 1988, for the use of cyfluthrin on pears and apples to control pear psylla. This program has ended. (Libby Pemberton)

EPA has denied requests from the:

1. California Department of Food and Agriculture for the use of pronamide on marigolds to control annual weeds. The Agency has denied this request on the basis that avaialble data are inadequate to evaluate residues in or on animal commodities and treated marigolds were to be used as an animal feed. (Gene Asbury)

2. Mississippi Department of Agriculture for the use of tricyclazole on rice to control Pyricularia oryzae. A notice of receipt was published in the **Federal Register** of March 9, 1988 (53 FR 7570). The Agency has denied this request because of insufficient data for it to make the appropriate evaluation of the risks from the proposed use. No progress on section 3 registration can be expected. (Jim Tompkins)

Authority: 7 U.S.C. 136.

Dated: May 17, 1988.

Edwin F. Tinsworth,

Acting Director, Office of Pesticide Programs.

[FR Doc. 88-11983 Filed 5-31-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180780; FRL-3388-7]

Receipt of Application for an Emergency Exemption From New York To Use Metolachlor; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the New York State Department of Environmental Conservation (hereafter referred to as "Applicant") to use the herbicide metolachlor (CAS 51218 45 2) to treat 8,000 acres of cabbage for pretransplant or early postemergent control of yellow nutsedge and hairy galinsoga.

EPA, in accordance with 40 CFR 166.24, is required to issue a notice of receipt and solicit public comment before making the decision whether to grant the exemption.

DATE: Comments should be received on or before June 16, 1988.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP-180780," should be submitted by mail 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. 246, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment converning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." 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 Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jim Tompkins, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 716D, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption for the use of metolachlor for control of yellow nutsedge and hairy galinsoga in transplanted cabbage.

Information in accordance with 40 CFR Part 166 was submited as part of this request. According to the Applicant, metolachlor is labeled for use on corn, pod crops, potatoes in New York State.

The Applicant states the herbicides currently registered on cabbage (Treflan, Dacthal, Devrinol) have not provided control of yellow nutsedge and hairy galinsoga.

The Applicant proposes to make a single application of the product Dual 8E, EPA Reg. No. 100-597, with ground application equipment at a maximum rate of 2 pounds active ingredient per acre at the beginning of the growing season.

A specific exemption was granted for this use of metolachlor on cabbage to the Applicant in 1986 and 1987 and to other states in at least two previous years.

The registration of metolachlor on cabbage is an ongoing IR-4 project. Residue data has been collected and is awaiting analysis by IF-4. IR-4 expects to submit a petition for tolerance sometime in the summer of 1988.

This notice does not constitute a decision by EPA on this application. The regulations governing section 18 require publication of a notice in the **Federal Register** of receipt of an application for a specific exemption proposing use of a chemical for which an emergency exemption has been requested or granted for the use in any previous three years, and a complete application for registration of that use and or a petition for tolerance for residues in or on the commodity has not been submitted to the Agency. The regulations also provide for the opportunity for public comment.

Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address given above.

The Agency will review and consider all comments received during the comment period in determining whether to issue this emergency exemption request.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88-12106 Filed 5-31-88; 8:45]

BILLING CODE 6560-50-M

[OPP-36160; FRL-3387-7]

Publication of Addenda on Data Reporting to Pesticide Assessment Guidelines; Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Addenda to the Pesticide Assessment Guidelines for certain studies have been finalized and are now available to the public from the National Technical Information Service (NTIS). The studies involved are: Product Chemistry, Confined Accumulation Studies on Rotational Crops, Laboratory Studies of Pesticide Accumulation in Fish, and Directions for Use. The addenda supersede paragraphs in the

Guidelines on data reporting and provide a format for the preparation of study reports by those submitting data to EPA. While these Guidelines are not mandatory at this time, data submitters are strongly encouraged to follow the formats so that reports will be consistent, thereby increasing the efficiency of pesticide registration and other regulatory activities.

ADDRESS: Guidelines can be ordered from: National Technical Information Service, Attn: Order Desk, 5285 Port Royal Road, Springfield, VA 22161, (703–487–4650).

FOR FURTHER INFORMATION CONTACT:

Elizabeth M.K. Leovey, Hazard Evaluation Division (TS–769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Room 703B, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2162).

SUPPLEMENTARY INFORMATION: The specific addenda currently available from NTIS, with NTIS order number and price, are as follows.

Document title	NTIS accession No.	EPA document No.	Hardcopy [1] price
Pesticide Assessment Guidelines, Subdivision D, Product Chemistry; Series 61, 62, 63, and 64; Addendum 1 on Data Reporting.	PB88–191705	540/09–88–048	$9.95
Pesticide Assessment Guidelines, Subdivision N, Chemistry: Environmental Fate; Series 165–1, Confined Accumulation Studies on Rotational Crops; Addendum 7 on Data Reporting.	PB88–191721	540/09–88–050	12.95
Pesticide Assessment Guidelines, Subdivision N, Chemistry: Environmental Fate; Series 165–4, Laboratory Studies of Pesticide Accumulation in Fish; Addendum 8 on Data Reporting.	PB88–191739	540/09–88–051	19.95
Pesticide Assessment Guidelines, Subdivision O, Residue Chemistry; Series 171–3, Directions for Use; Addendum 6 on Data Reporting.	PB88–191713	540/09–88–049	12.95

[1] Also available in microfiche at $6.95 each.

This is the second part of the fourth set of Data Reporting Guidelines published by the Agency. Publication of the previous sets were announced in the **Federal Register** of November 26, 1986 (51 FR 42931); September 23, 1987 (52 FR 35766); January 28, 1988 (53 FR 2535); and April 13, 1988 (53 FR 12186). These documents were reviewed by the U.S. Department of Agriculture, the Food and Drug Administration, and other organizations within EPA. They underwent public comment announced in the **Federal Register** of March 25, 1987 (52 FR 9536). The documents were revised to reflect consideration of these comments and the public comments are addressed in the documents.

Orders may be placed by mail or telephone. All orders should specify whether the document is requested in hard copy or microfiche form since prices vary for hard copy but are a consistent $6.95 for the microfiche. There is an additional $3.00 handling charge for each order. Payment may be made by charging against an NTIS deposit account; charging to VISA, MasterCard, or American Express; or by check or money order. In all orders, the document title, NTIS order number of the document, desired form of the document (microfiche or hard copy), and the price must be stated.

Data Reporting Guidelines for the remaining major studies in the Pesticide Assessment Guidelines will also be published. Publication will be announced in the **Federal Register**.

Dated: May 20, 1988.

Stephen L. Johnson,

Acting Deputy Director, Hazard Evaluation Division, Office of Pesticide Programs.

[FR Doc. 88–11984 Filed 5–31–88; 8:45 am]

BILLING CODE 6560–50–M

[OPP 36157; FRL–3388–6]

Pesticide Assessment Guidelines; Proposed Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and request for comments.

SUMMARY: The EPA is proposing to revise the Pesticide Assessment Guidelines, Subdivision E—Hazard Evaluation: Wildlife and Aquatic Organisms. These revisions would expand the scope of Subdivision E to include guidelines for testing on reptiles, amphibians, and insect pollinators, and would provide for major changes in the areas of wild mammal testing and field testing. This would improve the overall evaluation of the potential ecological effects of pesticides.

DATE: Comments should be received on or before July 31, 1988.

ADDRESS: Copies of the revised guidelines are available from the address below. Please submit three copies of written comments, identified with the document control number "OPP 36157," by mail 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, deliver comments to: Room 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any 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 market confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Room 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Allen W. Vaughan, Hazard Evaluation Division (TS–769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Room 815–D, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703 557–0783).

SUPPLEMENTARY INFORMATION: The Pesticide Assessment Guidelines describe protocols for performing tests to support the registration of pesticides under the Federal Food, Drug, and Cosmetic Act and the Federal Insecticide, Fungicide, and Rodenticide Act. A description of the organization of these Guidelines and their relationship to data requirements, along with the necessary information for ordering them from the National Technical Information Service, appears in 40 CFR 158.115, published in the **Federal Register** of October 24, 1984 (49 FR 42856). Major changes in this revision include: the addition of testing guidelines for pollinators (transferred from

Subdivision L of the Guidelines); the addition of testing guidelines for reptiles and amphibians; substantial revision of the section on wild mammal testing; revision of terrestrial field testing guidelines to reflect monitoring requirements; and, revision of aquatic field testing guidelines to reflect developments in mesocosm testing. These revisions have been made in Subdivision E to bring these guidelines in line with current policy and to reflect advances in the science of risk assessment.

The public is hereby requested to comment on this revised guidelines package. Comments on this document will be considered by the Agency in preparing a final version which will be published by the National Technical Information Service.

Dated: May 13, 1988.

Anne L. Barton,

Acting Division, Director, Hazard Evaluation Division, Office of Pesticide Programs.

[FR Doc. 88-12105 Filed 5-31-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3389-1]

Underground Injection Control Program: Establishment of Maximum Allowable Injection Pressure for Rule Authorized Wells in the State of Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Notice and Interim Final Notice and Request for Comments on New Proposal Only.

SUMMARY: EPA Region VIII has developed and published with notice for public comment on December 30, 1987, sand-face fracture gradients and a maximum allowable surface injection pressure formula for oil and gas-bearing formations in the State of Montana where enhanced recovery injection wells operate under the Underground Injection Control (UIC) program's rule authorization. EPA has reviewed public comments on the proposed fracture gradients, none of which were a request for a hearing, and is today publishing the final notice in accordance with 40 CFR 147.1354(a).

EFFECTIVE DATE: The maximum injection pressure fracture gradients included in today's final notice become effective upon publication. The two newly proposed fracture gradients included in the interim final notice become effective thirty (30) days after today's publication date unless specific comments are received thereon.

FOR FURTHER INFORMATION CONTACT: Laura Clemmens, Section Chief, Ground Water Section, U.S. EPA, Region VIII, 999-18th Street, Suite 500, Denver, Colorado 80202-2405, telephone (303) 293-1417.

SUPPLEMENTARY INFORMATION:

A. Public Comments and Response on Proposed Fracture Gradients

EPA received comments from twelve Montana operators on the proposed fracture gradients for injection formations. A number of comments were from operators of salt water disposal wells which were not subject to the proposed fracture gradients and were so advised.

Comments, including applicable fracture pressure data, were received from two operators whose wells were not addressed in the December 30, 1987, notice. On the basis of the data submitted by these two operators, EPA is proposing interim final fracture gradients for the:

—Homestake Sunburst Sand Unit, Sunburst Field, operated by Enhanced Production Operations, Inc.; and

—Ash Creek Shannon Sand Unit, Ash Creek Field, operated by Pecos Development Corporation.

The proposed fracture gradient for each of these operations is included in Table I. The proposed fracture gradients will become final thirty (30) days after this publication data unless EPA receives comments that the proposed gradients are not appropriate.

Comments, including more recent applicable fracture pressure data, were received from two operators. The updated information applies to five different enhanced recovery unit operations. On the basis of the data submitted by these two operators, EPA is revising fracture gradients for the:

—Ragged Point Tyler "A" Sand Unit, Ragged Point Field, operated by Buttes Resources;

—SE Sumatra Tyler Sand Unit, Southeast Sumatra Field, and adjacent Tyler Sand Unit, Sawyer Field, operated by Buttes Resources; and

—Cat Creek Sand Units #1 and #2, First and Second Cat Creek Sands, Cat Creek Field, operated by CENEX.

The fracture gradient for each of these operations is included in Table I.

B. Final Fracture Gradients for Montana

TABLE I.—FINAL SAND-FACE FRACTURE GRADIENTS (MONTANA)

Oil field/unit/operator	Producing formation	Fracture gradient, psi/ft
Keg Coulee/Buttes	Tyler Sandstone	0.830
Ragged Point/Buttes	Tyler Sandstone	1.145
Sawyer/Buttes	Tyler Sandstone	1.006
SE. Sumatra/Buttes	Tyler Sandstone	1.006
Sumatra/Buttes	Tyler Sandstone	.723
Cat Creek/Units #1 & #2/Cenex	1st & 2nd Cat Creek Sand	1.300
Cat Creek/Amsden & Swift/Cenex	Amsden & Swift (Ellis)	1.200
Sumatra/Grebe/Cenex	Tyler Sandstone	.674
Flat Lake East/Chevron	Ratcliffe Lime	770
Flat Lake West/Chevron	Ratcliffe Lime	.770
W. Sumatra/TSU/Conoco	Tyler Sandstone	.870
N. Cut Bank/Croft	Cut Bank Sandstone	1.360
Homestake/Sunburst/EPO (Enhanced Production Operations, Inc.) [1]	Sunburst Sandstone	1.200
W. Sumatra/Kincheloe/Exeter	Tyler Sandstone	.870
Red Creek/Exxon	Madison Limestone	1.070
Red Creek/Exxon—Interim Final [1]	Cut Bank Sandstone	1.370
Bell Creek/Ranch Creek Unit and Units A, B, C, D, and E/GWOP	Muddy Sandstone	.907
Cat Creek/Ellis Sand Unit/Hoss	Ellis Sandstone	1.070
Graben Coulee/Cut Bank Sand Unit/Monte Grande	Cut Bank Sandstone	1.282

TABLE I.—FINAL SAND-FACE FRACTURE GRADIENTS (MONTANA)—Continued

Oil field/unit/operator	Producing formation	Fracture gradient, psi/ft
Highview/Madison/Mountain States	Madison Limestone	.880
Ash Creek/Shannon/Pecos[1]	Shannon Sandstone	.793
SW. Ragged Point/Tyler A/Pet.—Lewis	Tyler A Sandstone	.750
N. Cut Bank Sand Unit/Phillips	Cut Bank Sandstone	1.440
SW. Cut Bank Sand Unit/Phillips	Cut Bank Sandstone	1.330
Dwyer/Charles/Phillips	Charles Limestone	.780
Flat Coulee/Swift/Phillips	Swift Sandstone	1.170
SW. Cut Bank/Two Medicine Unit/Wold	Cut Bank Sandstone	1.290
Cabin Creek, Gas City, Little Beaver, E. Little Beaver, Monarch, Pennel, Lookout Butte-Coral Creek, N. Pine, S. Pine, and Pine Units/SWEPI.	Siluro-Ordovician	.76[r]
Winnette Junction/Tyler/Templeton	Tyler Sandstone	1.110
Big Wall/Tyler B/Texaco—Interim Final[1]	Tyler B Sandstone	1.110
Bowes/Sawtooth/Texaco	Sawtooth Sandstone	1.110
Central Sumatra/Tyler/Texaco	Tyler Sandstone	1.020
NE. Sumatra/Tyler/Texaco	Tyler Sandstone	1.020
N. Sumatra/Tyler/Texaco	Tyler Sandstone	1.020
Sunburst Sand Unit/Texaco	Sunburst Sandstone	1.110
Stensvad/Lower Tyler Unit/Tomahawk	Lower Tyler Sandstone	.886
Cut Bank/S. Central Cut Bank Sand Unit/Union	Cut Bank Sandstone	1.434
S. Central Cut Bank Sand Unit/Union	Cut Bank Sandstone	1.434
Cut Bank/Madison Unit/Union	Madison Limestone	.880
Reagan Unit/Union	Madison Limestone	.880
Moulton Unit/Union (terminated)	Moulton Sandstone	.000
Jim Coulee/Tyler Sand Unit/Union—Texas	Tyler Sandstone	.821
Jim Coulee/Tyler Sand Unit, Well #BNI 33-3/Union—Texas	Tyler Sandstone	1.272
Kelly Unit/Union—Texas	Tyler Sandstone	.688
S. Little Wall/Tyler Sand Unit/Union—Texas	Tyler Sandstone	.700

C. Calculation of Maximum Allowable Surface Injection Pressure Using Final Fracture Gradients

The maximum allowable surface injection pressure (Pmax) formula to be used for each field unit with enhanced recovery wells authorized by rule is as follows:

Pmax = [Fracture Gradient—(0.433)(Sp.Gr.)] × [Well Depth, shallowest in project]

When the operator calculates the (Pmax) values, the fresh water hydrostatic pressure gradient (0.433 psi/ft) must be multiplied by the Specific Gravity of the appropriate injection fluid (Sp.Gr., unitless) before being subtracted from the established sand-face fracture gradient (psi/ft). The well depth to be used in the calculation of the maximum allowable surface injection pressure shall be that depth to the top of the injection perforations of the shallowest well in the injection formation in a rule authorized project. This value shall then apply to all injection wells in that field and/or unit. This procedure provides a safety margin because the use of a deeper well depth for these calculations could lead to significantly higher, possibly excessive, injection pressures in projects with highly dipping beds.

If a sufficient data base was not available to determine an appropriate sand-face fracture gradient for an injection formation/field as a part of this notice, EPA Region VIII has not herein listed a specific fracture gradient. In this case, EPA Region VIII will require the use of the previously established fracture gradient value of 0.733 psi/ft, as identified in the UIC Rules promulgated in 49 FR 20181 on May 11, 1984, and the attendant state-specific preamble. Therefore, for all of those geologic formations/fields not listed in Table I, but being used for the enhanced recovery of oil or gas, the formula for determining the maximum allowable surface injection pressure is as follows:

Pmax = [0.733-(0.433)(Sp.Gr.)] × [Well Depth, shallowest in project]

D. Subsequent Revisions of Final Fracture Gradients

Subsequent to today's notice of fracture gradients and maximum allowable injection pressures, an operator may obtain authority to inject at a pressure greater than these established herein only by submitting a written request to EPA. Any such request must be addressed to the Regional Administrator and must demonstrate that the requested injection pressure will not initiate new fractures or propagate existing fractures in the confining zone, or cause movement of fluids into an USDW. Any such request will be approved only after notice, opportunity for comment and opportunity for a public hearing, in accordance with Subpart A of Part 124 of this chapter (Ch. I).

Anyone wishing to review the supporting information which led to the development of this notice may do so at the EPA Region VIII office.

Dated: May 13, 1988.

James J. Scherer,

Regional Administrator, EPA Region VIII.

[FR Doc. 88-12198 Filed 5-31-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; Catskill Broadcasting Co. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and state	File No.	MM Docket No.
A. Malcolm Kahn *et al.*, d/b/a Catskill Broadcasting Company (a general partnership); Catskill, NY.	BPH-870430NG	88-252
B. John Jay Iselin; Catskill, NY..	BPH-870430NH	
C. Carmine A. Pizza, General Partner, Catskill FM, Ltd., a limited partnership; Catskill, NY.	BPH-870430NI	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name above is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Environmental, A
2. Comparative, A,B,C
3. Ultimate, A,B,C

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicant to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–12176 Filed 5–31–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Daystar Radio, Ltd., et al

1. The Commission has before it the following mutually exclusive applications for a new AM station:

Applicant, city, and state	File No.	MM Docket No.
A. Daystar Radio, Ltd.; Breen, Colorado.	BMP–861016AC	88–248
B. Frank Elwood and Wanda Jean Elwood; Kirtland, New Mexico.	BP–870302AG	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name above is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, B.
2. 307(b), All applicants
3. Contingent Comparative, All applicants
4. Ultimate, All applicants

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–12177 Filed 5–31–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Franklin Broadcasting, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and state	File No.	MM Docket No.
A. Charles E. Franklin, d/b/a Franklin Broadcasting; Johnsonville, S.C.	BPH–860306ME	88–251
B. Hemingway Broadcasting Company, Inc.; Johnsonville, S.C.	BPH–860314ML	
C. William H. Burckhalter & Cynthia B. Merrithew Johnsonville, S.C.	BPH–860407MF	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Air Hazard, C
2. Comparative, A,B,C
3. Ultimate, A,B,C

3. If there is any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–12179 Filed 5–31–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Albert E. Gary et al

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and state	File No.	MM Docket No.
A. Albert E. Gary; Killington, Vermont.	BPH–851029MH	88–240
B. Killington Broadcasting, Ltd.; Killington, Vermont.	BPH–851030MN	
C. Killington Community Broadcasting Corporation; Killington, Vermont.	BPH–851030MO	
D. Mountain Broadcasting Limited Partners; Killington, Vermont.	BPH–851030MP	
E. Elf Broadcasting Company; Killington, Vermont.	BPH–851030MQ	
F. Radio Group, Inc.; Killington, Vermont.	BPH–851030MR	
G. Bruce Lyons; Killington, Vermont.	BPH–851030MX	
H. Killington, Ltd.; Killington, Vermont.	BPH–851030MZ	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding

headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, D
2. Environmental Impact, A,B,C,D,E,F,H
3. Comparative, A–H
4. Ultimate, A–H

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicant to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–12178 Filed 5–31–88; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; Panhandle Communications, Inc., et al

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and state	File No.	MMDocket No.
A. Panhandle Communications, Inc.; Port Saint Joe, FL.	BPH–850709MD	88–250
B. PN Radio Company, Port Saint Joe, FL.	BPH–850711MS	
C. Dee Wetmore; Port Saint Joe, FL.	BPH–850712U7	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name above is used below to signify whether the issue in question applies to that particiular applicant.

Issue Heading and Applicant(s)

1. Environmental, A
2. Comparative, A,B,C
3. Ultimate, A,B,C

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicant to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–12180 Filed 5–31–88; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; Southland Broadcasting Co., Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and state	File No.	MM Docket No.
A. Southland Broadcasting Company, Inc.; Dothan, AL.	BPH–870709MG	88–247
B. (Stephen G. McGowan *et al.*, d/b/a) Broadcast Associates; Dothan, AL.	BPH–870710MG	
C. Dothan Radio Joint Venture (Mignon C. Smith and Ellis J. Parker, General Partners); Dothan, AL.	BPH–870710MH	
D. (Francis E. Busby d/b/a) Bee Broadcasting; Dothan, AL.	BPH–870710NG	
E. Houston L. Pearce; Dothan, AL.	BPH–870710NJ	
F. Albert E. Smith; Dothan, AL.	BPH–870710NL	
G. Jerry Townsend; Dothan, AL.	BPH–870710NM	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name above is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant

1. Multiple Ownership, B
2. Air Hazard, D
3. Comparative, All Applicants
4. Ultimate, All Applicants

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicant to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–12181 Filed 5–31–88; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; Wabash Valley Community Radio Corp. et al

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city/state	File No.	MM Docket No.
A. Wabash Valley Community Radio Corporation; Delphi, IN.	BPH–860611MD	88–246
B. Whitcar Regional Broadcasting Co., Inc.; Delphi, IN.	BPH–860702MG	
C. James R. Bricker; Delphi, IN.	BPH–860707NN	
D. Dennis J. Kelly, d/b/a Carroll County Broadcasting Company; Delphi, IN.	BPH–860707OF	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify

whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A,B,C,D
2. Ultimate, A,B,C,D

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicant to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division Mass Media Bureau.

[FR Doc. 88–12182 Filed 5–31–88; 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.: 212–009847–019.
Title: U.S. Atlantic Coast/Brazil Agreement.
Parties:
Companhia de Navegacao Lloyd Brasileiro
Companhia de Navegacao Maritima Netumar
American Transport Lines, Inc.

Synopsis: The proposed amendment would establish a ceiling on pool payments for the pool period October 1, 1987, through December 31, 1988.

Agreement No.: 202–010829–002.
Title: Eurocorde Discussion Agreement.
Parties:
North Europe-U.S. Atlantic Conference
U.S. Atlantic-North Europe Conference
Evergreen Marine Corp. (Taiwan), Ltd.

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.: 206–011139–001.
Title: Europact Agreement.
Parties:
North Europe-United States Pacific Freight Conference
North Europe-U.S. Gulf Freight Association
North Europe-U.S. Atlantic Conference

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.: 206–011140–001.
Title: Amercorde Agreement.
Parties:
Pacific Coast European Conference
Gulf-European Freight Association
U.S. Atlantic-North Europe Confernce

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.

By Order of the Federal Maritime Commission.

Tony P. Kominoth,

Assistant Secretary.

Dated: May 26, 1988.

[FR Doc. 88–12253 Filed 5–31–88; 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.: 224–002758–006.
Title: Port of Oakland Terminal Agreement.
Parties:
City of Oakland
American President Lines, Ltd. (APL)

Synopsis: The agreement amendment extends the basic agreement's term to July 31, 2001 and provides APL the right to extend the agreement for two additional periods of seven years, each subject to modification. It also provides for the Port's option to purchase certain APL container cranes.

Agreement No.: 224–002758C–002.
Title: Port of Oakland Terminal Agreement.
Parties:
City of Oakland
American President Lines, Ltd. (APL)

Synopsis: The agreement amendment extends the basic agreement's term to July 31, 2001 and provides APL the right to extend the agreement for two additional periods of seven years, each subject to modification.

By Order of the Federal Maritime Commission.

Dated: May 25, 1988.

Joseph C. Polking

Secretary.

[FR Doc. 88–12143 Filed 5–31–88; 8:45 am]

BILLING CODE 6730–01–M

Listing of Controlled Carriers Under the Shipping Act of 1984

Dated: May 26, 1988.

AGENCY: Federal Maritime Commission.

ACTION: Amendments to list of controlled carriers.

SUMMARY: The Federal Maritime Commission is removing Flota Mercante Gran Centro Americana S.A. and National Galleon Shipping Corporation from the list of controlled carriers. Information received by the Commission indicates that these two carriers have ceased operation, and therefore no longer meet the definition of a controlled carrier pursuant to section 3(8) of the Shipping Act of 1984. Also, the Commission is adding Ceylon Shipping Corporation, Compagnie Marocaine de Navigation, Compania Anonima Venezolana de Navegacion, Far East Enterprising Co. (H.K.), Ltd. and Nigerian National Shipping Line Limited

to the list of controlled carriers subject to the advance tariff filing and other regulatory requirements of section 9 of the Shipping Act of 1984.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523-5740.

SUPPLEMENTARY INFORMATION: Sections 3(8) and 9 of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1702(8) and 1708, provide for the identification and regulation of certain state-controlled carriers in the foreign commerce of the United States. The Commission has determined that because Flota Mercante Gran Centro Americana S.A. and National Galleon Shipping Corporation have ceased operation, they should no longer be considered controlled carriers as defined by section 3(8) of the 1984 Act. Therefore, the Commission is deleting Flota Mercante Gran Centro Americana S.A. and National Galleon Shipping Corporation from its list of non-exempt controlled carriers.

Further, the Commission has determined that Ceylon Shipping Corporation, Compagnie Marocaine de Navigation, Compania Anonima Venezolana de Navegacion, Far East Enterprising Co. (H.K.), Ltd. and Nigerian National Shipping Line Limited meet the definition of a controlled carrier under section 3(8) of the 1984 Act, and are, therefore, added to the list of controlled carriers.

Upon inquiry by the Commission, Far East Enterprising Co. (H.K.), Ltd. admitted its controlled status, and Compagnie Marocaine de Navigation and Nigerian National Shipping Line Limited provided no response to the inquiry.

Ceylon Shipping Corporation claimed exemption for the connecting carrier agreement between Ceylon Shipping Corporation and United Arab Shipping Company under section 9(f)(3) of the 1984 Ac,t 46 U.S.C. app. 1708(f)(3). This claim was rejected by the Commission on the grounds that the connecting carrier agreement does not constitute a ratemaking body under section 9(f)(3).

Compania Anonima Venezolana de Navegacion took the position that it should be exempt from the controlled carrier provisions because its operations in all U.S. trades are covered by an agreement or agreements effective under section 6 of the 1984 Act. The fact that it operates under a conference agreement in certain trades was found not to entitle it to a general exemption from the controlled carrier classification.

The Commission's list of controlled carriers was previously published in the **Federal Register** on May 15, 1987 [52 FR 18451]. The amended list is shown below:

Baltic Shipping Co.—U.S.S.R.
Bangladesh Shipping Corp.—Bangladesh
Black Sea Shipping Company—U.S.S.R.
Black Star Line—Ghana
Ceylon Shipping Corporation—Sri Lanka
China Ocean Shipping Co.—People's Republic of China
China Resources Transportation & Godown Co., Ltd.—People's Republic of China
Compagnie Maritime Zairoise—Zaire
Compagnie Marocaine de Navigation (COMANAV)—Morocco
Compagnie Nationale Algerienne de Navigation—Algeria
Compagnie de Navegacao Loide Brasileiro—Brazil
Compania Anonima Venezolana de Navegacion (Venezuelan Line)—Venezuela
Compania Peruana de Vapores (Peruvian State Line)—Preu
Egyptian National Line—Egypt
Empresa Maritima del Estado (Empremar Line)—Chile
Far East Enterprising Co. (H.K.), Ltd. (Farenco)—People's Republic of China
Far Eastern Shipping Co.—U.S.S.R.
Flota Bananera Ecuatoriana S.A.—Ecuador
Guangdong International Shipping Co., Ltd.—People's Republic of China
MISR Shipping Company—Egypt
Murmansk Shipping Co. (Arctic Line)—U.S.S.R.
National Shipping Corporation of the Philippines—Philippines
Nauru Pacific Line—Nauru
Neptune Orient Lines—Singapore
Nigerian National Shipping Line Limited—Nigeria
P. T. Djakarta Lloyd—Indonesia
Pakistan National Shipping Corporation—Pakistan
Pharaonic Shipping Co. (S.A.E.)—Egypt
Polish Ocean Lines—Poland
Romanian Shipping Company Constanta (NAVROM)—Romania
Shipping Corporation of India—India
Sudan Shipping Line Limited—Sudan
Transportes Navieros Ecuatorianos (Transnave)—Ecuador
Zhu Sheng Transportation Co., Ltd.—People's Republic of China

The process of identification and classification of controlled carriers is continuous. The list as shown will be amended as circumstances warrant.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 88-12144 Filed 5-31-88; 8:45 am]

BILLING CODE 6730-01-M

Cancellation of Inactive Tariffs

By notice served March 15, 1988, and published in the **Federal Register** on March 18, 1988, the Federal Maritime Commission notified 13 marine terminal operators (MTOs) of its intent to cancel their individual tariffs 30 days thereafter, in the absence of a showing of good cause why such tariffs should not be cancelled.

The notice was served on the 13 MTOs on March 15, 1988, and no responses have been received. It is misleading to the public, potentially unfair to competing MTOs, and an unreasonable administrative burden on the Commission's staff for inactive tariffs to remain on file. Accordingly, the tariffs of the 13 MTOs listed in the Appendix to this notice that failed to respond to the March 15, 1988, notice will be cancelled.

Now, therefore it is ordered, That the tariffs of the 13 MTOs listed in the Appendix be cancelled.

It is further ordered, That a copy of this Order be sent by certified mail to the last known address of the MTOs listed in the Appendix.

It is further ordered, That this notice be published in the **Federal Register.**

This Order is issued pursuant to authority delegated to the Director, Bureau of Domestic Regulation by § 9.04 of Commission Order No. 1 (Revised) dated November 12, 1981.

Robert S. Drew,

Director, Bureau of Domestic Regulation.

Appendix—Federal Maritime Commission Inactive Terminal Operators

Alltrans Express U.S.A., Inc., P.O. Box 7886, San Francisco, CA 94120
Coakley Terminals, 70 Erieside Avenue, Cleveland, OH 44114
Containerfreight Terminals Company, 1730 Third Street, San Francisco, CA 94107
Full Service Distribution, 2850 NW 31st Avenue, Portland, OR 97210
International Shipping Co., Inc., 1001 Connecticut Avenue NW., Suite 628, Washington, DC 20036
Koppel Incorporated Grain, c/o Koppel Terminal, P.O. Box 2330, Long Beach, CA 90801
W. W. Lynch, Inc., 1500 West 8th Street, Long Beach, CA 90813
NWT Distribution Services, 215 SE Morrison, Portland, OR 97214
Ocean Cargo Facilities, Inc., 85 Grand Canal Drive, Suite 309, Miami, FL 33144
Omni Overseas Freighting, Inc., 3001 S. Ridgeland Avenue, Berwyn, IL 60402
Riverway Terminal Inc., 2995 N.W. So. River Drive, Miami, FL 33125
Sea-Tac International Warehouse, Inc., 22 So. Idaho Street, Seattle, WA 98134
Tulane Fleeting, Inc., 201 Evans Rd., Suite 409, Harahan, LA 70123.

[FR Doc. 88-12145 Filed 5-31-88; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Banca Commerciale Italiana, S.p.A.; Formation of, Acquisition by, or Merger of Bank Holding Companies, and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) 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, or to engage in such an activity. Unless otherwise noted, these 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 June 29, 1988.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Banca Commerciale Italiana, S.p.A.*, Milan, Italy; to acquire up to 63.3 percent of the voting shares of Irving Bank Corporation, New York, New York, and thereby indirectly acquire Irving Trust Company, New York, New York; The Bank of Lake Placid, Lake Placid, New York; Bank of Long Island, Babylon, New York; Central Trust Company, Rochester, New York; Dutchess Bank & Trust Company, Poughkeepsie, New York; Endicott Trust Company, Endicott, New York; The First National Bank of Hancock, Hancock, New York; The First National Bank of Moravia, Moravia, New York; The Fulton County National Bank & Trust Company, Gloversville, New York; Hayes National Bank, Clinton, New York; The Merchants National Bank & Trust Company of Syracuse, Syracuse, New York; Nanuet National Bank, Nanuet, New York; Union National Bank, Albany, New York; and Scarsdale National Bank and Trust Company, Scarsdale, New York.

In connection with this application, Applicant proposes to indirectly acquire Irving Business Center, Inc., and thereby engage in marketing the product and services of Irving Trust Company pursuant to § 225.25(b)(1) and (b)(5); Irving Financial Centers, Inc., and thereby engage in consumer lending and commercial lending to local businesses pursuant to § 225.25(b)(1); Irving Life Insurance Company, and thereby engage in providing credit-related life, mortgage, and health insurance to consumers of IBC's bank and nonbank subsidiaries pursuant to § 225.25(b)(8); Irving Trust Company California, and thereby engage in the nondeposit trust company business, including providing fiduciary, custody and investment management services pursuant to § 225.25(b)(3); Irving Trust Company Florida, and thereby engage in the nondeposit trust company business, including providing fiduciary, custody and investment management services pursuant to § 225.25(b)(3); One Wall Street Brokerage, Inc., and thereby engage in the discount brokerage business, including the purchase and sale of stocks, bonds, options, zero coupons and other securities, for customers of the banking subsidiaries of IBC pursuant to § 225.25(b)(15); Irving Services Corporation, and thereby engage in servicing loans primarily related to credit card purchases and providing data processing services to others pursuant to §§ 225.25(b)(1) and (b)(7); and Liberty Brokerage, Inc., and thereby engage in providing intended brokerage services pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 25, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-12151 Filed 5-31-88; 8:45 am]

BILLING CODE 6210-01-M

Eastern 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 June 22, 1988.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostina, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Eastern Bancshares, Inc.*, Romney, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Romney, Romney, West Virginia.

B. **Federal Reserve Bank of Chicago** (David S. Epstein Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Danville Bancshares, Inc.*, Danville, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of Danville State Savings Bank, Danville, Iowa. Comments on this application must be received by June 20, 1988.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Sooner Southwest Bankshares, Inc.*, Bristow, Oklahoma; to acquire 81.7 percent of the voting shares of Anadarko Bancshares, Inc., Bristow, Oklahoma, and thereby indirectly acquire Anadarko Bank and Trust Co., Anadarko, Oklahoma.

Board of Governors of the Federal Reserve System, May 25, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-12152 Filed 5-31-88; 8:45 am]

BILLING CODE 6210-01-M

Alan E. Johnson; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1871(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not letter than June 15, 1988.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Alan E. Johnson*, Jacksonville, Florida; to retain 9.33 percent of the voting shares of Bank of St. Petersburg, St. Petersburg, Florida

2. *John F. Mercurio*, West Palm Beach, Florida; to acquire an additional 3.73 percent of the voting shares of Suburban Bankshares, Inc., Lake Worth, Florida, and thereby indirectly acquire Suburban Bank, Lake Worth, Florida.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Robert L. Currell*, Gloria J. Currell, Steven J. Currell, Julie L. Currell, and Debra K. Ditsworth, all of Spirit Lake, Iowa; to acquire 100 percent of the voting shares of Waymar Bancorporation, Spirit Lake, Iowa.

C. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Calvin W. Clark*, to retain control of 17.8 percent of the voting shares of Pine City Bancorporation, Inc., Pine City, Minnesota, and thereby indirectly retain shares of Pine City State Bank, Pine City, Minnesota.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue Kansas City, Missouri 64198:

1. *Charles L. Epstein*, Malvern, Pennsylvania; to acquire 33.3 percent of the voting shares of Commercial Bank Investment Company, Denver, Colorado and thereby indirectly acquire Commercial Bancorporation of Colorado, Denver, Colorado; Century Bank at Orchard Road, Englewood, Colorado; Bank of Colorado, Colorado Springs, Colorado; Century Bank—Academy at Hancock, Colorado Springs, Colorado; Century Bank North, Denver, Colorado; Century Bank and Trust Company, Denver, Colorado, Century Bank Southeast, N.A., Englewood, Colorado; Rocky Mountain Bank and Trust Co., Fort Collins, Colorado; Century Bank at Broadway, Littleton, Colorado; and Commercial Savings Bank of Sterling, Sterling, Colorado.

2. *Wade V. Robinett, M.D.*, Kansas City, Missouri; to acquire an additional 8.60 percent of the voting shares of Superior Bancshares, Inc., Kansas City, Missouri, and thereby indirectly acquire Superior National Bank, Kansas City, Missouri.

Board of Governors of the Federal Reserve System, May 25, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-12153 Filed 5-31-88; 8:45 am]

BILLING CODE 6210-01-M

NBD Bancorp, Inc.; 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 June 16, 1988.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *NBD Bancorp, Inc.*, Detroit, Michigan; to acquire Trust Company of Naples, Naples, Florida, and thereby engage in trust company functions pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 25, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-12154 Filed 5-1-88; 8:45 am]

BILLING CODE 6210-01-M

Sturm Investment Company, Inc.; Notice of Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (8)) and §225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of

Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 22, 1988.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Sturm Investment Company, Inc.*, Omaha, Nebraska; to engage *de novo* in the issuance and holding of secured promissory notes pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 25, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-12155 Filed 5-31-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anesthetic and Life Support Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the renewal of the Anesthetic and Life Support Drugs Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on May 1, 1990, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: May 24, 1988.

George R. White,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-12159 Filed 5-31-88; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 88N-0202]

Drug Export; Nitropflaster Ratiopharm-5 and 10

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Hercon Laboratories Corp., a Subsidiary of Health-Chem Corp., has filed an application requesting approval for the export of the human drug Nitropflaster Ratiopharm-5 and 10 to the Federal Republic of Germany.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Rudolf Apodaca, Division of Drug Labeling Compliance (HFD-310), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8063.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Hercon Laboratories Corp., a Subsidiary of Health-Chem Corp., Research & Development Laboratories, 200B Corporate Ct., Middlesex Business Center, South Plainfield, NJ 07080, has filed an application requesting approval for the export of the drug Nitropflaster Ratiopharm-5 and 10, to the Federal Republic of Germany. This drug is used for prophylaxis and long-term treatment of angina pectoris associated with coronary heart disease (circulatory disturbances of the myocardium). The application was received and filed in the Center for Drug Evaluation and Research on May 19, 1988, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (expect that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by June 13, 1988, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802, Pub. L. 99-660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: May 20, 1988.

D. Hicks,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 88-12158 Filed 5-31-88; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 88M-0218]

Bausch & Lomb Optics Center; Premarket Approval of Bausch & Lomb® Renu Lubricant and Rewetting Drops

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application by Bausch & Lomb Optics Center, Rochester, NY, for premarket approval, under the Medical Device Amendments of 1976, of BAUSCH & LOMB® ReNu Lubricant and Rewetting Drops for use to lubricate and rewet soft (hydrophilic) contact lenses during lens wear. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant by letter of March 18, 1988, of the approval of the supplemental application.

DATE: Petitions for administrative review by July 1, 1988.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On October 23, 1987, Bausch & Lomb Optics Center, Rochester, NY 14692, submitted to CDRH a supplemental application for premarket approval of BAUSCH & LOMB® Renu Lubricant and Rewetting Drops. BAUSCH & LOMB® Renu Lubricant and Rewetting Drops is indicated for use to lubricate and rewet soft (hydrophilic) contact lenses during wear.

On January 22, 1988, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the supplemental application. On March 18, 1988, CDRH approved the supplemental application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above.

The labeling of the BAUSCH & LOMB® Renu Lubricant and Rewetting Drops states that the solution is indicated for use to lubricate and rewet soft (hydrophilic) contact lenses during wear. Manufacturers of soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the **Federal Register** of the approval of a new solution for Use with an approved soft (hydrophilic) contact lens, the manufacturer of each lens or PMA holder shall correct its labeling to refer to the new solution at the next printing or at such other time as CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 1, 1988, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: May 23, 1988.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88-12160 Filed 5-31-88; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of a Partial Disapproval of a Washington State Plan Amendment

May 25, 1988.

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on July 12, 1988, in Seattle, Washington to reconsider our decision to partially disapprove Washington State Plan Amendment 87-11

Closing Date: Requests to participate in the hearing as a party must be received by the Docket Clerk on or before June 16, 1988.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 365 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 a portion of a Washington State Plan Amendment.

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 which 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.

The State of Washington has submitted a plan amendment which amended eligibility and coverage portions of its State plan as required by HCFA Program Memorandum Transmittal 87–4. One portion of the amendment reflected the State's revisions to its community property law to include a "one-way" provision for purposes of determining financial eligibility. The one-way rule provides that if the income received under the community property rules in the name of the nonapplicant spouse exceeds the community income received in the name of the applicant spouse, the applicant's interest in that excess shall be considered unavailable to the applicant. The effect of the change, coupled with the community property rules, is that income available to the nonapplicant spouse is always maximized, and income available to the applicant spouse is always minimized.

The State of Washington believes that the one-way rule should be approved because it was cited in the Ninth Circuit Court of Appeals decision ordering the Secretary to approve Washington 84–20. The State also maintains that the one-way rule should be approved because it is protected under section 2373(c) of the Social Security Act of 1984.

The issues in this matter are whether: (1) The one-way rule violates SSI regulations at 20 CFR Part 416, section 1902(a)(10)(C)(i)(III) of the Act, and regulations at 42 CFR 435.723; (2) approval of the one-way rule is required by the Ninth Circuit Court of Appeals decision on Washington 84–20; and (3) the one-way rule is protected under section 2373(c) of the Deficit Reduction Act of 1984.

Section 1902(a)(10) of the Act requires, in general, that States use the cash assistance methodologies and practices in determining eligibility for Medicaid. Section 1902(a)(10)(C)(i)(III) specifically requires that in determining eligibility for the aged, blind, and disabled medically needy, the methodology of the SSI program will be used. Regulations at 20 CFR Part 416 specify the SSI methodology which States must apply in determining what is income and how it affects eligibility as well as how spousal income affects eligibility; i.e., deeming of income. HCFA has concluded that Washington's one-way rule does not comply with the requirements of 20 CFR Part 416, which include no provisions for apportioning income such as Washington proposes in its one-way rule. As such, Washington's one-way rule is contrary to the requirements of 20 CFR Part 416.

In addition, regulations at 42 CFR 435.723 prescribe the financial responsibility of spouses in determining Medicaid eligibility. These regulations include specific requirements concerning the circumstances under which spousal income is considered available to an applicant or recipient. These regulations also include no provisions such as Washington proposes in its one-way rule for apportioning income. Thus, HCF found that Washington's one-way rule is contrary to the requirements of 42 CFR 435.723.

HCFA does not believe that the one-way rule falls within the scope of the Ninth Circuit Court of Appeals decision on Washington 84–20. While the one-way rule was mentioned in that decision, the Court did not order the Secretary to approve the one-way rule; it only ordered the Secretary to approve SPA 84–20, and the one-way rule was not a part of SPA 84–20. In addition, HCFA believes that the one-way rule provisions are only protected by the DEFRA moratorium to the extent that they apply to eligibility groups covered under sections 1902(a)(10)(A)(ii)(IV), (V), or (VI), or 1902(a)(10)(D) of the Act.

The notice to Washington announcing an administrative hearing to reconsider our partial disapproval of its State plan amendment reads as follows:

Mr. Ron W. Kero,
Director, Division of Medical Assistance, Washington Department of Social and Health Services, Mail Stop HB–41, Olympia, Washington 98504

Dear Mr. Kero: This is to advise you that your request for reconsideration of the decision to disapprove a portion of Washington 87–11 was received on April 26, 1988.

Washington, 87–11 would reflect, in the State's Medicaid plan, amendments to its community property laws to include a one-way provision for purposes of determining financial eligibility.

You have requested a reconsideration of whether this provision of the plan amendment conforms to the requirements for approval under the Social Security Act and pertinent Federal regulations.

There are three issues in this matter: (1) whether the one-way rule violates SSI regulations at 20 CFR Part 416, section 1902(a)(10)(C)(i)(III) of the Act, and regulations at 42 CFR 435.723; (2) whether approval of the one-way rule is required by the Ninety Circuit Court of Appeals decision on Washington 84–20; and (3) whether the one-way rule is protected under Section 2373(c) of the Deficit Reduction Act of 1984.

I am scheduling a hearing on your request to be held on July 12, 1988, at 10:00 a.m. in Room 470–472, 2901 third Avenue, Seattle, Washington. If this is not acceptable, we would be glad to set a date that is mutually agreeable to the parties.

I am designating Mr. Albert Miller as the presiding official. 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 yours,
William L. Roper, M.D.,
Administrator.

(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: May 25, 1988.

William L. Roper,
Administrator, Health Care Financing Administration.

[FR Doc. 88–12252 Filed 5–31–88; 8:45 am]
BILLING CODE 4160–01–M

Social Security Administration

[BHR–003–N]

Hearings by Administrative Law Judges of Certain Medicare Claims

AGENCY: Health Care Financing Administration (HCFA), HHS. Social Security Administration (SSA), HHS.

ACTION: General notice.

SUMMARY: This notice is to advise the public that the Social Security Administration's Office of Hearings and Appeals (SSA, OHA) has recently been given temporary jurisdiction over Medicare Part B, Supplementary Medical Insurance, Administrative Law Judge (ALJ) hearings. Medicare Part A, Hospital Insurance, ALJ hearings and Medicare entitlement matters continue under SSA, OHA's jurisdiction.

EFFECTIVE DATE: June 1, 1988.

FOR FURTHER INFORMATION CONTACT: Kenneth Stewart, (703) 235–1060.

Prior to the enactment of Pub. L. 99–509, the Omnibus Budget Reconciliation Act of 1986 (OBRA 86), the Social Security Act (the Act) contained no provisions for Administrative Law Judge (ALJ) hearings or judicial review for claims arising under Medicare Part B, the Supplementary Medical Insurance program under title XVIII of the Act, except for certain matters arising under section 1876 of the Act pertaining to health maintenance organizations (HMOs) and competitive medical plans (CMPs). Instead, as specified in section 1842(b)(3)(C) of the Act and regulations located at 42 CFR Part 405, Subpart H, Medicare carriers performed reviews of initial claims and provided carrier hearings for individuals enrolled under Medicare Part B. If an individual beneficiary, or a physician or supplier that accepted assignment, disagreed with an initial determination of a claim under Medicare Part B, he or she could obtain a review by the carrier which denied the claim and, if the amount in controversy was $100 or more, a new determination by a hearing officer appointed by the carrier which denied the claim.

Section 9341 of OBRA 86 revised sections 1869 (a) and (b) of the Act to grant further administrative review rights under Medicare Part B, effective for services furnished on or after January 1, 1987. Medicare carriers will continue to perform initial claims review and to provide hearings in accordance with section 1842(b)(3)(C) of the Act and procedures set forth at 42 CFR Part 405, Subpart H. These further review rights provided under section 9341 of OBRA 86 include the right to an ALJ hearing for claims where $500 or more is in controversy, and the right to judicial review following an ALJ hearing if at least $1,000 remains in controversy.

With the additional review rights granted by OBRA 86, claimants under Part B now have essentially the same appeals rights as claimants under Part A. Since the inception of the Medicare program, ALJ hearings for Part A claimants have been conducted by ALJs from the SSA, OHA according to regulations at 20 CFR Part 404, Subparts J and R, and 42 CFR Part 405, Subpart G. Given the additional workload created by expansion of appeal rights under Part B, the committee report accompanying OBRA 86 suggested that the Secretary of Health and Human Services consider either establishing a separate Office of Hearing and Appeals in the Health Care Financing Administration (HCFA) to hear both Part A and Part B beneficiary appeals, as well as certain other Medicare appeals, or designating certain ALJs in SSA, OHA to specialize in Medicare appeals.

The Secretary determined that HCFA should assume responsibility for hearing all Medicare appeals. Accordingly, HCFA planned to establish its own Office of Hearings and Appeals, including a new corps of ALJs, and to draft proposed regulations for appeals under Part A and Part B. Among other things, these draft regulations included a proposal to permit ALJ hearings by telephone. Congress, however, believing that additional study is needed on the use of telephone hearings, directed the Secretary to prepare a report on telephone hearings, and ordered SSA, OHA to conduct hearings on claims under Part B in the same manner as hearings are conducted under section 205(b)(1) of the Act until the earlier of submission of the report to Congress or September 1, 1988 (Section 4037(a), Pub. L. 100–203).

Since SSA, OHA has temporary jurisdiction over Part B appeals, but will be required to hold hearings before promulgation of regulations governing Part B appeals, OHA has determined that these hearings should be conducted according to the existing regulations governing Part A appeals until such time as regulations governing Part B are promulgated.

In conducting these hearings, SSA, OHA will use the following procedures:

- Parties must complete the carrier administrative review process set forth in 42 CFR Part 405, Subpart H. ALJ hearings will be held for Medicare Part B claims which meet the amount in controversy requirement established by section 9341 of OBRA 86.
- Medicare Part B ALJ hearings and any subsequent administrative review of such cases by SSA, OHA's Appeals Council will be conducted in accordance with existing procedures as provided in 20 CFR Part 404, Subparts J and R, except where the language of these regulations may conflict with specific provisions of the Act, as amended.
- Parties to ALJ decisions or dismissals will have the right to request administrative review of the ALJ's action.

(Catalog of Federal Register Domestic Assistance Program No. 13.774, Medicare-Supplementary Medical Insurance Program) (No. 13.802, Social Security-Disability Insurance; No. 13.803, Social Security-Retirement Insurance; No. 13.804, Social Security-Survivors Insurance; No. 13.807, Supplemental Security Income)

Dated: April 12, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

Dated: April 28, 1988.

Dorcas R. Hardy,

Commissioner, Social Security Administration.

[FR Doc. 88–12251 Filed 5–31–88; 8:45 am]

BILLING CODE 4120–01–M

National Institutes of Health

National Institute of Neurological and Communicative Disorders and Stroke; Solicitation of Public Comments for the Interagency Head Injury Task Force

Notice is hereby given that the Interagency Head Injury Task Force plans to solicit public comments so that it can increase its knowledge and understanding of the needs of the traumatic brain injured. Information from the scientific community and other interested groups or individuals may be shared in connection with a public hearing on September 8 and 9, 1988, from 9:30 a.m. until 5:00 p.m. It will be held in the Department of Health and Human Services, Conference Room 800, 200 Independence Avenue SW., Washington, DC.

As a result of language in the House Appropriations Committee Report No. 100–256 (page 71), the Secretary of Health and Human Services established an Interagency Head Injury Task Force. The Senate Appropriations Committee Report No. 100–189 (page 103) also encouraged increased coordinative efforts with other Federal agencies in the area of traumatic head injury.

The Task Force consists of representatives from the National Institute of Neurological and Communicative Disorders and Stroke, the Department of Defense, the Department of Education, the Department of Transportation, the Veterans Administration, the National Science Foundation, the National Institute of Mental Health, the National Center for Health Statistics, the Food and Drug Administration, the Centers for Disease Control, the Health Resources and Services Administration, the National Center for Health Services Research/Health Care Technology Assessment, and the Health Care Financing Administration. The Interagency Task Force will prepare a report with recommendations on traumatic head injury causing brain damage. It will have a broad focus on research, on training and on service

delivery in the area of the traumatic brain injured. Attention will also be given to the range of concerns from acute trauma management to rehabilitation programs as well as related data coordination.

The attendance and the number of presentations during the meeting will be limited to the time and space available. Thus, all individuals who wish to attend or present statements at the meeting should notify in writing Mr. Joseph J. Culhane, Executive Secretary, Interagency Head Injury Task Force, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, 9000 Rockville Pike, Building 31, Room 8A03, Bethesda, Maryland 20892, by June 20, 1988. Notification should indicate complete name, affiliation, address, and telephone number.

Those who wish to make a presentation must file a written statement or detailed summary of their presentation with the Executive Secretary before 5:00 p.m., July 11, 1988. Only speakers discussing subjects relevant to the mission of the Interagency Task Force will be scheduled.

Each speaker will be limited to 10 minutes to summarize or highlight the written statement. Those who cannot attend the meeting but would like to submit a written statement are encouraged to do so. Statements longer than three pages must also contain a succinct summary.

Date: May 25, 1988.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 88-12234 Filed 5-31-88; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-050-08-4212-13]

Arizona; Yuma District Resource Management Planning; Resource Management Amendment/Decision Record, Arizona Availability and Public Comment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Yuma District Resource Management Plan Amendment, decision record, and public comment period.

FOR FURTHER INFORMATION CONTACT: Mike Ford, Area Manager, Havasu Resource Area, Bureau of Land Management, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86403, 602-855-8017 (for Needles lands), and Sue Richardson, Area Manager, Yuma Resource Area, 3150 Winsor Avenue, Yuma, Arizona 85365, 602-726-6300 (for Yuma lands).

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, a draft Resource Management Plan (RMP) Amendment/Environmental Assessment (EA) has been prepared for the Yuma District. The proposed amendment modifies the Land Ownership Adjustment section of the Yuma District RMP by adding the statement: This decision is modified to allow approximately 432 acres in the following locations to be available for disposal through exchange: within the city limits of Needles, California, on the south side of town described as T. 8 N., R. 23 E., SBM, sec. 4, lot 4, SW¼NW¼, N½SW¼, SE¼SW¼, N½SW¼SW¼, SE¼SW¼SW¼, N½SW¼SW¼SW¼, SE¼SW¼SW¼SW¼, W½SW¼SE¼; approximately 10 miles south of Yuma, Arizona, described as T. 10 S., R. 23 W., G&SRM, sec. 18, lot 10, NE¼NW¼N W¼, SE¼SW¼NW¼, E½NW¼SW¼, SW¼NE¼SW¼; approximately 15 miles east of Yuma along Highway 95 described as T. 8 S., R. 21 W., G&SRM, sec. 16, lots 7 and 9, E½SE¼SW¼; approximately 6 miles east of Ehrenberg, Arizona, just south of Interstate 10, described as T.3 N., R. 21 W., G&SRM, sec. 3, lot 9. This will increase the acreage designed for disposal to 56,192 acres.

Copies of the amendment are available upon request from the Yuma District Office, 3150 Winsor Avenue, Yuma, Arizona 85365, 602-726-6300. Written comments should be sent to the District Manager at the above address.

Robert V. Abbey,

Acting District Manager.

Date: May 23, 1988.

[FR Doc. 88-12216 Filed 5-31-88; 8:45 am]

BILLING CODE 4310-32-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31277]

West Shore Railroad Corp.; Operation Exemption; Lines of Richard Sanders

West Shore Railroad Corporation (West Shore) has filed a notice of exemption to operate certain lines of railroad being purchased by Richard Sanders (Sanders). The involved lines, comprising a total of approximately 9.67 miles all in Union County, PA, are: (1) That portion of the Milton Industrial Track (MIT) from milepost 161.4 at Winfield to milepost 169.8 at Weston Milton; (2) that portion of the Limekiln Branch in Winfield from its connection with the MIT at milepost 161.75 (milepost 0.0) to milepost 0.4; (3) that portion of the Nail Mill Branch in Lewisburg from its connection with the (MIT) at milepost 166.07 (milepost 0.0) to milepost 0.5; and (4) that portion of the Penitentiary Branch in Lewisburg from its connection with the MIT at milepost 167.25 (milepost 0.0) to milepost 0.37. In Docket No. AB-167 (Sub-No. 488 N), *Conrail Abandonment in Northumberland and Union Counties, PA* (not printed), served May 3, 1988, Consolidated Rail Corporation (Conrail) has applied to abandon these lines. Sanders has entered into an agreement with Conrail to purchase the property after abandonment, and West Shore has entered into an agreement with Sanders to operate the rail service on the property. The transaction was expected to be consummated on May 9, 1988. Any comments must be filed with the Commission and served on: William P. Quinn and Eric M. Hocky, Rubin Quinn Moss & Heaney, 510 Walnut Street, Philadelphia, PA 19106.

West Shore must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470, is achieved. *See Class Exemption for the Acquisition and Operation of Rail Lines under 49 U.S.C. 10901,* I.C.C. 2d , served February 17, 1988.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: May 17, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88-11959 Filed 5-31-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget

Background: The Department of Labor, in carrying out its responsibilities

under the Paperwork Reductio
U.S.C. Chapter 35), considers c
on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable. How often the recordkeeping/reporting requirement is needed. Who will be required to or asked to report or keep records. Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Assistant Secretary for Policy
(Department Management) Pretest of the National SAS Farmworker Survey (Seasonal Agricultural Services)
Annually
Individuals or households; Farms
Businesses or other for profit
100 responses; 100 hour; 1 form.

The Immigration and Nationality Act (INA) as amended by Immigration Reform and Control Act (IRAC) requires the DOL and the USDA to estimate the departure rate from Seasonal Agricultural Services (SAS) agriculture and to analyze information about wages, working conditions and recruitment practices. This pretest survey will gather data necessary to make these estimates and carry out these analyses.

Signed at Washington, DC, this 26th day of May, 1988.

Marizetta L. Scott,

Acting Department Clearance Officer.

[FR Doc. 88-12296 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Altair Int'l et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 13, 1988.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 13, 1988.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 23rd day of May 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Altair Int'l, Plant #7 (Workers)	Mt. Clemens, MI	5/23/88	5/3/88	20,684	Electrical Connectors.
Champion Lighting (Workers)	Hialeah, FL	5/23/88	5/9/88	20,685	Residential & Commercial Lighting.
Hialeah Industries (Workers)	Miami Lakes, FL	5/23/88	5/13/88	20,686	Pilot Suits.
J.T Sportswear (ILGWU)	Quincy, MA	5/23/88	5/9/88	20,687	Ladies' Skirts.
KY Pants (Workers)	Glasgow, KY	5/23/88	5/9/88	20,688	Men's Work Pants.
Key Tronic Corp. (Workers)	Spokane, WA	5/23/88	4/22/88	20,689	Keyboards.
Lincoln Underwear Co. (Workers)	Pottstown, PA	5/16/88	5/5/88	20,690	Men's & Boys T-Shirts.
Oxnard Frozen Foods (Company)	Oxnard, CA	5/23/88	5/10/88	20,691	Processed Frozen Vegetables.
Stackpole Carbon Co. (IUE)	St. Marys, PA	5/23/88	5/10/88	20,692	Resistors, Bulk Graphite, Carbon Brushes, Electric Contacts & Relays, Graphite Brushes.
Transfer Machine, Inc. (UAW)	Tray, MI	5/23/88	5/10/88	20,693	Special Machine Tools.
Philips Consumer Electronics Group (IUE)	Greeneville, TN	5/23/88	5/6/88	20,694	Televisions.

APPENDIX—Continued

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Philips ECG, Incorp. (Workers)	Altoona, PA	5/23/88	5/10/88	20,695	Vaccuum Receiving Tubes.

[FR Doc. 88-12297 Filed 5-31-88; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; W.D.H. Co. et al.

In accordance with section 223 of the Trace Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period May 16, 1988—May 20, 1988.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decrased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-20,574; W.D.H. Company, Farmingdale, NJ

TA-W-20,545; Allegheny Drop Forge Co., Pittsburgh, PA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-20,536; P.B.M. Machining, Inc., Muncie, IN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,572; Shape Systems, South Portland, ME

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,542; Toland & Johnson, Inc., Oklahoma City, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,529; Airco Carbon, Niagara Falls, NY

U.S. imports of carbon and graphite electrodes declined absolutely and relative to domestic shipments in 1987 compared to 1986.

TA-W-20,594; General Electric Co., Drive Systems Operations, Salem, VA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,531; Energy Data Search, Inc., Oklahoma City, OK

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,546; Beckley Coal Mining Co., Beckley Coal Mine, Glen Daniel, WV

U.S. imports of metallurgical coal are negligible.

TA-W-20,564; Florsheim Shoe Co., West Belmont Street, Chicago, IL

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,564A; Florsheim Shoe Co., South Canal Street, Chicago, IL

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,609; General Motors Corp., CPC Oklahoma City, Oklahoma City, OK

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,568; LTV Steel Co., Chicago Works, Chicago, IL

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA-W-20,630; Tanoma Mining Co., Tanoma Mine & Preparation Plant, Marion Center, PA

U.S. imports of steam and metallurgical coal is negligible.

Affirmative Determinations

TA-W-20,530; Baxter Healthcare Corp., Eaton, OH

A certification was issued covering all workers engaged in the production of powder-free vinyl gloves separated on or after January 1, 1988 and before April 30, 1988.

TA-W-20,539; Sterling Engineered Products, Wisconsin Rapids, WI

A certification was issued covering all workers on or after March 8, 1987.

TA-W-20,549; Clover Knitting Mills, Inc., Philadelphia, PA

A certification was issued covering all workers on or after March 11, 1987.

TA-W-20,490; Milan Sportswear, Milan, TN

A certification was issued covering all workers on or after April 30, 1987.

TA-W-20,593; Florsheim Shoe Co., (Capaha Plant) Cape Girardeau, MO

A certification was issued covering all workers on or after December 1, 1987 and before May 1, 1988.

TA-W-20,543; Washington Manufacturing Co., McMinnville, TN

A certification was issued covering all workers on or after March 10, 1987.

TA-W-20,617; Scholze Tannery, Chattanooga, TN

A certification was issued covering all workers engaged in the production of leather separated on or after March 18, 1987.

TA-W-20,595; Gilbert & Bennett Manufacturing Co., Georgetown, CT

A certification was issued covering all workers engaged in the production of wire fencing products separated on or after March 29, 1987.

TA-W-20,550; Dalton Industries, Inc., Corporated Headquarters and Warehouse, Willoughby, OH

A certification was issued covering all workers separated on or after March 11, 1987 and before May 31, 1988.

TA-W-20,551; Dalton Industries, Inc., Willoughby, OH

A certification was issued covering all workers on or after May 31, 1987 and before May 31, 1988.

TA–W–20,552; Dalton Industries, Inc., Rochester, NY

A certification was issued covering all workers on or after March 11, 1987 and before May 31, 1988.

TA–W–20,553; Dalton Industries, Inc., Pittsburgh, PA

A certification was issued covering all workers separated on or after March 11, 1987 and before May 31, 1988.

TA–W–20,554; Dalton Industries, Inc., Pigeon Forge, TN

A certification was issued covering all workers of the firm separated on or after March 11, 1987 and before May 31, 1988.

TA–W–20,555; Dalton Industries, Inc., Mystic, CT

A certification was issued covering all workers separated on or after March 11, 1987 and before May 31, 1988.

TA–W–20,556; Dalton Industries, Inc., Lorain-Amherst, OH

A certification was issued covering all workers of the firm separated on or after March 11, 1987 and before May 31, 1988.

TA–W–20,557; Dalton Industries, Inc., Hilton Head, SC

A certification was issued covering all workers separated on or after March 11, 1987 and before May 31, 1988.

TA–W–20,558; Dalton Industries, Inc., Erie, PA

A certification was issued covering all workers of the firm separated on or after March 11, 1987 and before May 31, 1988.

TA–W–20,559; Dalton Industries, Inc., Columbus, OH

A certification was issued covering all workers separated on or after March 31, 1987 and before May 31, 1988.

TA–W–20,560; Dalton Industries, Inc., Canton, OH

A certification was issued covering all workers of the firm separated on or after March 11, 1987 and before May 31, 1988.

TA–W–20,561 Dalton Industries, Inc., Buffalo, NY

A certification was issued covering all workers separated on or after March 31, 1987 and before May 31, 1988.

TA–W–20,562 Dalton Industries, Inc., Bedford, OH

A certification was issued covering all workers of the firm separated on or after March 11, 1987 and before May 31, 1988.

TA–W–20,563; Dalton Industries, Inc., Asheville, NC

A certification was issued covering all workers separated on or after March 31, 1987 and before May 31, 1988.

I hereby certify that the forementioned determinations were issued during the period May 16, 1988—May 20, 1988. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance. Dated 5/24/88.

[FR Doc. 12298 Filed 5–31–88; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–88–97–C]

Amax Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Amax Coal Company, 251 North Illinois Street, P.O. Box 967, Indianapolis, Indiana 46201–0967 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Wabash Mine (I.D. No. 11–00877) located in Wabash County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that barriers be established and maintained around oil and gas wells penetrating coal beds.

2. As an alternate method, a petitioner proposes to clean out and plug oil and gas wells using specific techniques and procedures as outlined in the petition.

3. In addition, petitioner proposes to mine through the plugged oil or gas well. Prior to mining through, the petitioner would confer with the MSHA District Manager for approval of the specific mining procedures, and appropriate officials would be allowed to observe the process and all mining would be under the direct supervision of a certified official. In addition:

(a) Drivage sites would be installed; firefighting equipment, roof support and ventilation materials would be available;

(b) The quantity of air would be not less than 9000 cubic feet per minute to ventilate the face;

(c) Equipment would be checked for permissibility and serviced prior to mining through the well. The working place would be free from accumulations of coal dust and coal spillages, and rock-dusted to within 20 feet of the face;

(d) Methane monitors would be calibrated prior to the shift and tests would be made during mining approximately every 10 minutes; and

(e) When the wellbore is intersected, all equipment would be deenergized and safety checks would be made before mining would continue in by the well a sufficient distance to permit adequate ventilation around the area of the wellbore.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 25, 1988.

[FR Doc. 88–12278 Filed 5–31–88; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–88–76–C]

Arch of Kentucky, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Arch of Kentucky, Inc., P.O. Box 787, Lynch, Kentucky 40855 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Highsplint No. 2 Mine (I.D. No. 15–16084) and its No. 33 Mine (I.D. No. 15–02007) both located in Harlan County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that cabs or canopies be installed on the mine's electric face equipment.

2. The mines range from 19- to 51 inches in height with consistent ascending and descending grades creating dips in the coal bed. The roof of each mine is very uneven.

3. Petitioner states that the use of cabs or canopies on its 820 Simmons-Rand coal haulers and its S&S scoops would result in a diminution of safety resulting from impaired vision and from being required to operate in cramped positions.

Impaired vision and cramped positions cause the following hazards:

(a) Ingress and egress from the cab is limited and effectively prevents quick escape when mining conditions warrant such escape;

(b) Equipment operators severely damage power cables by running over them or the canopies catch those cables that are hung, with similar hazards occurring;

(c) Miners operate the machinery exposing their bodies and appendages creating the chances of being crushed between the machine and rib;

(d) Due to ascending and descending grades, the cabs or canopies would get against the roof and destroy roof supports; and

(e) The cabs or canopies would destroy or pull down ventilation controls (curtains) affecting mine ventilation.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 23, 1988.

[FR Doc. 88-12279 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-79-C]

Castle Gate Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Castle Gate Coal Company, P.O. Box 449, Helper, Utah 84526 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Mine No. 3 (I.D. No. 42-00165) located in Carbon County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trailing cables be 500 feet.

2. Development in the 10th East panel will be by means of a three-entry system with crosscuts and entries on 104-foot by 140-foot centers and 140-foot by 100-foot centers. The size of the coal blocks is required due to the geological characteristics of the property. The size of the coal blocks requires the use of either longer trailing cables or distribution boxes. Longer trailing cables would be more easily protected from mechanical damage than distribution boxes. Distribution boxes are difficult to protect due to 16-foot-wide entries dictated by roof conditions and due to pitched seam and water problems.

3. As an alternate method, petitioner proposes to use 800 feet of No. 6 AWG (portable) trailing cables on shuttle cars and roof bolting machines.

4. Petitioner states that increasing the length of the shuttle car, and roof bolter cables to 800 feet would eliminate the need for backspooling and the addition of junction boxes. Backspooling causes undue wear and damage to the trailing cable which results in premature failure and/or breakdown of the cable. This cable damage creates a greater potential for fire and shock hazards to occur. Elimination of junction boxes reduces required system maintenance and also eliminates another potential source of fire and shock hazards.

5. Petitioner further states that no voltage-drop, motor overheating, dropping out of contractors, or starting problems due to low-voltage have been encountered with the machines.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 24, 1988.

[FR Doc. 88-12280 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-67-C]

Duquesne Light Co.; Petition for Modification of Application of Mandatory Safety Standard

Duquesne Light Company, R.D.#1, Box 282A, Greensboro, Pennsylvania 15338 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Warwick No. 3 Mine (I.D. No. 36-02374) located in Green County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. The petitioner states that electrical installations (combination boxes, belt starter boxes, switch houses, and permanent pumps) at various locations throughout the mine are located such that all entries close to them are maintained as intake airways. There are no return airways in the immediate vicinity for ventilating such areas.

3. As an alternate method, the petitioner proposes that—

(a) The electric installations would be of the dry type and contain no flammable cooling fluid or flammable hydraulic oil;

(b) The electrical installations would be housed in fireproof enclosures;

(c) No combustible material would be stored or allowed to accumulate in the fireproof enclosure;

(d) A signal, activated by a suitable sensor, would be located so that it could be heard or seen by a responsible person;

(e) The fireproof enclosure would be installed with fireproof doors to provide proper ventilation. These fire doors would be secured open by a flammable cord so that if a fire occurred, the cord would be severed and the doors would close automatically;

(f) Firefighting equipment would be provided on the outside of the fireproof structure; and

(g) The electrical equipment would be examined and maintained by a qualified person.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 23, 1988.

[FR Doc. 88-12281 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-84-C]

Eastern Associated Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Associated Coal Corporation, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.701 (abandoned areas, adjacent mines; drilling of boreholes) to its Federal No. 2 Mine (I.D. No. 46-01456) located in Monongalia County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that whenever any working place approaches within 50 feet of abandoned areas in the mine as shown by surveys, or within 200 feet of any other abandoned areas of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within 200 feet of any workings of an adjacent mine, boreholes are required to be drilled to a distance of at least 20 feet in advance of the working face of such working place and continually maintained to a distance of at least 10 feet in advance of the advancing working face.

2. The 17 Right, 3-South section of the Federal No. 2 Mine is presently being mined in the direction of Loveridge Mine. The mining plan calls for the 17 Right, 3-South section to be driven at a 90 degree angle off of the 3-South Mains and parallel to the northernmost entry of the Loveridge Mine at a distance of 120 feet.

3. Petitioner states that compliance with the standard would require drilling two rib holes towards the Loveridge Mine, in addition to the center hole, allowing a 16-foot cut. This procedure would require three major pieces of equipment to be moved in and out of the working place before a cut of coal would be mined. To complete development of a 100-foot block under this procedure, a minimum of twenty-one machine moves would be made, thereby exposing the operating crew to a greater number of caught-by and struck-by hazards.

4. As an alternate method, petitioner proposes to drill one long rib hole, which would allow completion of the entry development with no intermediate equipment moves as the entry would be roof bolted off the mining machine. An additional hole would be drilled in the rib as noted to maintain the hole minimum of 14.2 feet inside the rib at all times. The entire face drilling operation would be completed when mining takes place in the adjacent entries. Upon completion of mining in the No. 1 entry, the entire drilling procedure would be repeated.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 29, 1988.

[FR Doc. 88-12282 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-53-C]

Freeman United Coal Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Freeman United Coal Mining Company, P.O. Box 100, West Frankfort, Illinois 62896 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Orient No. 6 Mine (I.D. No. 11-00599) located in Jefferson County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries, and that belt haulage entires not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use intake air coursed through the belt haulage entries to ventilate active workings upon development of three and four entry longwall panels and during the retreat phase of the longwall. In support of this request, petitioner states that:

(a) The belt entry would be separate from the aircourse designated as the intake escapeway with permanent stopping and overcasts;

(b) A carbon monoxide monitoring system has been installed with specific conditions and equipment as outlined in the petition, and in accordance with an approved "Automatic Fire Sensor and Warning Device System Plan";

(c) Petitioner proposes to develop three or four entry longwall panels. These panels would be developed with the belt haulage entry on an outside entry next to the solid block of coal. The intake entry would be on the center followed by the returns; and

(d) Coursing intake air through the belt haulage entry would ensure that the air within contains only minimum amounts of methane. Petitioner would be able to utilize the extra quantity of air from the belt haulage entry to control methane and responsible dust along the longwall face.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 24, 1988.

[FR Doc. 88-12284 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-88-C]

Hawkeye Services Corp.; Petition for Modification of Application of Mandatory Safety Standard

Hawkeye Services Corporation, 1093 North Mayo Trail, Suite 256, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 77.811 (movement of portable substations and transformers) to its No. 3 Surface Mine (I.D. No. 15-09965) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns that requirement that portable substations and transformers be deenergized before they are moved from one location to another.

2. As an alternate method, petitioner proposes to use a rubber-tired, trailer-mounted, portable generator, connected with a short length of trailing cable and pulled by a tractor truck, to move large electric mining shovels and draglines, using specific equipment and safety procedures as outlined in the petition.

3. In support of this request, petitioner states that by avoiding the need to deenergize a portable substation, establish ground fields, and use longer length trailing cable the alternate method would eliminate excessive exposure of personnel to energized trailing cable, which could be damaged from being dragged by equipment over long distances.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 23, 1988.

[FR Doc. 88-12283 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-90-C]

Inferno Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Inferno Coal Company, Inc., P.O. Box 1270, Elkhorn City, Kentucky 41522 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 6 (I.D. No. 15-16320) located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the fire clay seam, the thickness of the seam ranges from 40 to 44 inches. The bottom is soft shale and varies from flat and dry to wet and uneven.

3. Petitioner states that the use of cabs or canopies would result in a diminution of safety because the cabs or canopies would limit the equipment operator's visibility and seating position causing fatigue; thereby increasing chances for an accident. Due to uneven roof and very soft bottom, the cabs or canopies could strike and dislodge roof supports. The cabs or canopies could also strike and dislodge electrical cables creating an electrical or fire hazard.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Dated: May 23, 1988.

[FR Doc. 88-12285 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-58-C]

LAR Mining, Inc.; Petition for Modification of Application of Mandatory Safety Standard

LAR Mining, Inc. Route 2, Box 199, Evarts, Kentucky 40828, has filed a petition to modify the application of 30 CFR 75.206 (conventional roof support) to its No. 1 Mine (I.D. No. 15-13085) located in Harlan County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that width of openings be limited to 20 feet when only using conventional roof support.

2. As an alternate method, petitioner proposes to use a 26-foot width in the belt entry, a 24-foot width in the crosscuts and a 22-foot width in the aircourses.

3. In support of this request, petitioner states that the mine is using conventional roof control with the specified widths along with spot bolting and cribbing for adverse conditions. Full bolting is highly impractical in the mine's seam which averages 28 inches in most areas. In heights of 28 inches, it is difficult to transport miners and supplies. Bolting would take 1½ inches to 2 inches of the available clearance, creating an unsafe condition due to equipment snagging on protruding roof bolts.

4. Petitioner further states that the mining equipment used is an auger type continuous miner. This system is not designed to operate in 20-foot widths, which does not allow enough space to maneuver in the petitioner's mine. A 20-foot width would restrict the mobility of the miners and would also be detrimental to their safety.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 23, 1988.

[FR Doc. 88-12286 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-61-C]

Manor Mining and Contracting Corp.; Petition for Modification of Application of Mandatory Safety Standard

Manor Mining and Contracting Corp., P.O. Boc 368, Bigler, Pennsylvania 16825 has filed a petition to modify the application of 30 CFR 75.206 (conventional roof support) to its No. 44 Mine (I.D. No. 36-01226) located in Clearfield County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that the width of openings be limited to 20 feet, the spacing of roadway roof supports not exceed 5 feet, and supports be installed within 5 feet of an undercut face.

2. As an alternate method, the petitioner proposes to use: a 24-foot width in th belt entry on a 50-foot center; a 24-foot width in the crosscut on a 75- to 85-foot center; a 30-foot width in the room on a 150- to 170-foot center; a 24-foot width in the room crosscut, on a 75- to 85-foot center; a 20- to 24-foot width in the pillar split; and a 12-foot minimum for the pillar fender of the primary split.

3. In support of this request, the petitioner states that the mine is using the conventional method of operating through the use of a continuous miner. This method of mining in 20-foot widths would result in a diminution of safety to the miners affected because it would congest the working area and place the miners in a greater risk of being pinched against the continuous miner or against the conveyor belt.

4. For these reasons, the petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 23, 1988.

[FR Doc. 88-12287 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-62-C]

Mountain Spur Coals and Energy, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Mountain Spur Coals and Energy, Inc., P.O. Box 429, Pennington Gap, virginia 24277 has filed a petition to modify the application of 30 CFR 75.206 (conventional roof support) to its No. 1 Mine (I.D. No. 15-14235) located in Harlan County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that the width of openings be limited to 20 feet when only using conventional roof support.

2. As an alternate method, petitioner proposes to use a 26-foot width in the belt entry, a 26-foot width in the crosscuts and a 20-foot width in the aircourses.

3. Petitioner currently uses Mark 20 Pivot Jack Miners, which are equipped with two twenty ton hydraulic jacks that hold the back of the miner down and keeps the back of the miner from traveling against the opposite rib that is being cut. This also provides support for the face area directly over the back of the miner operator.

4. The Wilcox 20 miner is 28 feet long and does not have a swivel section on it, which makes it almost impossible to operate in a 20-foot place. When the miner is in use, the back of it sometimes gets against the rib and in a 20-foot area this would not allow enough room for a miner to get by in case of an emergency.

5. Petitioner states that mining in 26.foot widths with four rolls of timber is much safer than mining in 20-foot widths with two rolls of timber. The miner has room to maneuver, the miners can work more comfortably and the curtains can stay-up at all times in 26-foot widths.

6. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 26, 1988.

[FR Doc. 88-12288 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-65-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, P.O. Box 2339, Zanesville, Ohio 43701 has filed a petition to modify the application of 30 CFR 77.216-3(a) (water, sediment, or slurry impoundments and impounding structures; inspection requirements; correction of hazards; program requirements) to its Broken Aro Mine (I.D. No. 33-00949), Sediment Pond No. 47 (I.D. No. 1211OH80070-06) located in Coshocton County, Ohio.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all water, sediment or slurry impoundments be examined by a qualified person designated by the person owning, operating or controlling the impounding structure at intervals not exceeding seven days for appearances of structural weakness and other hazardous conditions.

2. As an alternate method, petitioner proposes to examine the sediment pond No. 47, at their closed Broken Aro Mine, annually and following major precipitation.

3. In support of this request, petitioner states that the facility has been inspected weekly since construction in 1980 and there has been no geometric change. The structure has an excellent vegetative cover, no erosion problems have appeared; no signs of instability have appeared; there are no downstream hazards to miners or to the public; and the nearest building is a barn approximately a half-mile downstream. There are no miners employed at the mine except the dam inspector once a week. the dam is locked, access is blocked by cable, and the inspector has the only key.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health

Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 23, 1988.

[FR Doc. 88-12289 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-89-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, 1951 Barrett Court, P.O. Box 1990, Henderson, Kentucky 42420-1990 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its Camp No. 1 Mine (I.D. No. 15-02709), its Camp No. 2 Mine (I.D. No. 15-02705) both located in Union County, Kentucky and its Martwick Mine (I.D. No. 15-14074) located in Muhlenberg County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. As an alternate method, petitioner proposes to install an early warning fire detection system, in lieu of heat point sensor devices. A low-level carbon monoxide (CO) detection system will be installed in all belt entries, at each belt transfer point and at intervals not to exceed 2000 feet along each conveyor belt entry. The velocity of air in the belt conveyor entry will be 50 feet per minute or greater and have a definite and distinct movement in the designated direction. The low-level CO system will be capable of giving warning of a fire for a minimum of four hours after the source of power to the belt is removed. The CO system will initiate the fire alarm signals at an attended surface location where there is two-way communication. The person will be located so that the signal can be seen if CO levels reach 10 parts per million (ppm) and heard at 15 ppm above the ambient level for the mine. The person will be trained in the operation of the CO monitoring system and in the proper procedures to follow in the event of an emergency or malfunction. The CO system will be capable of identifying any activated sensor and for monitoring electrical continuity to detect electrical malfunctions.

3. The CO monitoring system will be visually examined at least once each shift and tested for functional operation weekly to ensure the monitoring system is functioning properly. The monitoring system will be calibrated with known concentrations of CO and air mixtures at least monthly.

4. If the CO monitoring system is deenergized for routine maintenance or for failure of sensor unit the belt conveyor will continue to operate and qualified persons will patrol and monitor the belt conveyor using hand-held CO detecting devices.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 27, 1988.

[FR Doc. 88-12290 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-80-C]

Quarto Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Quarto Mining Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Powhatan No. 4 Mine (I.D. No. 33-01157) located in Monroe County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trailing cables not exceed 500 feet.

2. The mine is developing Mains, Sub-mains, and Longwall development panels using place change mining which utilizes 100-foot by 100-foot blocks to maintain adequate roof support, and in place mining which utilizes 200-foot blocks, whenever possible, for increased roof control and abutment pressure control. Ventilation is also improved by using 200-foot blocks by limiting the number of stoppings and the resultant pressure losses.

3. As an alternate method, petitioner proposes to increase the maximum length of trailing cables, supplying shuttle cars from 480 volt alternating current systems, to 800 feet. In support of this request, petitioner states that—

(b) The shuttle car trailing cables would be 800 feet;

(c) All circuit breakers used to protect #4 AWG shuttle car trailing cables exceeding 600 feet in length would have instantaneous trip units calibrated to trip at 500 amperes. The trip setting of these circuit breakers would be sealed, and these circuit breakers would have permanent labels;

(d) The tolerance of replacement instantaneous trip units would be calibrated to trip at 500 amperes and this setting would be sealed;

(e) The shuttle car trailing cables would be visually examined daily to ensure safe operating conditon; and

(f) Any shuttle car trailing cable that is not in safe operating condition would be removed from service immediately and repaired or replaced.

4. Petitioner states that the proposed alterante method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 19, 1988.

[FR Doc. 88-12291 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-64-C]

Saginaw Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Saginaw Mining Company, P.O. Box 275, St. Clairsville, Ohio 43950 has filed a petition to modify the application of 30 CFR 75.319-1 (merchanized mining section) to its Saginaw Mine (I.D. No. 33-00941) located in Belmont County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the term "mechanized mining section' means an area of a mine in which coal is mined with one set of production equipment.

2. As an alternate method, petitioner proposes to use one set of mining equipment for production of material while another set is being repositioned or maintained in or inby the last open breakthrough for preparation of production after the first set of equipment has completed its mining cycle.

In support of this request, petitioner states that:

(a) The methane liberation for the Saginaw Mine as of December 4, 1987, was 126,000 cubic feet in 24 hours;

(b) Both sets of mining equipment are maintained in permissible condition; and

(c) Only one set of mining equipment will be used at a time for production of material.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 23, 1988.

[FR Doc. 88-12292 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-43-C]

S&R Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

S&R Coal Company R.D. #1, Box 12-A, Klingerstown, Pennsylvania 17941 has filed a petition to modify the application of 30 CFR 75.206 (conventional roof support) to its No. 2 Slope (I.D. No. 36-06448) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the width of openings be limited to 20 feet when only using conventional roof support.

2. As an alternate method, petitioner requests a modification of the standard to allow the roof in openings in excess of 20 feet in width be supported with conventional supports set on 5-foot centers in every direction, or be supported by employing the full box method.

3. In support of this request, petitioner states that in Anthracite Mines all roadways are restricted to 12 feet in width. The breasts, on the other hand, where mobile equipment is not used, are driven up to 30 feet in width. These breasts are supported by conventional supports placed on 5-foot centers in every direction, hence no span of roof is left unsupported. In the harder pitch mines 60 degrees and up, the breasts are driven full. In the full box method, manways are timbered 30-inches wide and loose coal supports every square inch of roof between the manway timber.

4. Petitioner further states that roof bolts would create a hazard in the hard pitch mines, because they would be installed at 30 degrees to as little as 2 degrees from horizontal. This would result in shearing of the bolts.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 23, 1988.

[FR Doc. 88-12293 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-44-C]

Sure Fire Coals, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Sure Fire Coals, Inc., P.O. Box 249, Stanville, Kentucky 41659 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 4A Mine (I.D. No. 15-14977) located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine has a coal bed height of 38 inches. However, the floor consists of 3 inches fireclay; 3½ inches sandstone and 8 inches fireclay.

3. Petitioner states that during the mining cycle the sandstone is broken up causing specific modification to the mining equipment. All of the equipment was equipped with cabs and canopies until the floor clearance had to be increased, because of stated conditions. At this time, the cabs and canopies had to be removed in order for the equipment to function properly.

4. In further support of this request, petitioner states that the mine has no history of roof falls and employs the resin grout method of bolting.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July

1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 23, 1988.

[FR Doc. 88-12294 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-68-C]

Webster County Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Webster County Coal Corporation, P.O. Box 128, Clay, Kentucky 42404 has filed a petition to modify the application of 30 CFR 75.1103-4(a) (automatic fire sensor and warning device systems; installation; minimum requirements) to its Dotiki Mine (I.D. No. 15-02132) located in Webster County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. As an alternate method, the petitioner proposes to install one sensor at every belt drive and belt conveyor tailpiece combination, where a belt drive discharges onto a belt conveyor tailpiece.

3. In support of this request, the petitioner states that—

(a) The head roller of each combination drive is positioned in the same area and airflow as the tailpiece and one sensor would give adequate protection for both the belt drive and tailpiece;

(b) Where belt drives are set at angles to the main line belts, and the tailpiece is greater than fifty feet from the header, a sensing device would be provided for both the tailpiece and belt drive; and

(c) Air off the belt lines would not be used for face ventilation. Temporary stoppings would be erected in the first pillar line outby each section tailpiece and belt line air would be vented to the return.

4. The Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 1, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: May 24, 1988.

[FR Doc. 88-12295 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 86-128]

Class Exemption for Securities Transactions Involving Employee Benefit Plans and Broker-Dealers

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of extension of authority for information collection requests.

SUMMARY: This document contains a notice informing interested persons that the Office of Management and Budget has approved an extension of the information collection requests under the Paperwork Reduction Act of 1980 contained in Prohibited Transaction Exemption 86-128 (51 FR 41686). Prohibited Transaction Exemption 86-128 allows persons who serve as fiduciaries for employee benefit plans to effect or execute securities transactions under certain circumstances. The exemption also allows sponsors of pooled separate accounts and other pooled investment funds to use their affiliates to effect or execute securities transactions for such accounts when certain conditions are met.

EFFECTIVE DATES: The paperwork requests contained in Prohibited Transaction Exemption 86-128, effective February 12, 1987, have been approved through March 31, 1991.

FOR FURTHER INFORMATION CONTACT: Daniel J. Maguire, Esq., Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210, (202) 523-9596 (not a toll free number) or Mark A. Greenstein, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, (202) 523-7901 (not a toll free number).

SUPPLEMENTARY INFORMATION: On November 18, 1986, the Department of Labor (the Department) published a notice in the **Federal Register** (51 FR 41686) containing the grant of Prohibited Transaction Exemption 86-128, which exempts certain transactions from the restrictions of section 406(b) of the Employee Retirement Income Security Act of 1974, and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code (the Code) by reason of Code section 4975(c)(1) (E) or (F).

On March 19, 1987, the Department published a notice in the **Federal Register** (52 FR 8676) given notice of the effective date of Prohibited Transaction Exemption 86-128 as February 12, 1987. In addition, that notice stated that the Office of Management and Budget had approved the paperwork collection requests contained in the exemption for use through February 29, 1988.

Pursuant to a request from the Department, the Office of Management and Budget has now approved the information collection requests of the exemption for use through March 31, 1991.

Notice of Effective Date

Notice is hereby given that the Office of Management and Budget (OMB) has approved the information collection requests under the Paperwork Reduction Act of 1980 for Prohibited Transaction Exemption 86-128 (published at 51 FR 41686, November 18, 1986), which exempts certain transactions from the restrictions of section 406(b) of the Employee Retirement Income Security Act of 1974 and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code (the Code) by reason of Code section 4975(c)(1) (E) or (F). The date of OMB approval was March 1, 1988. The information collection requests under Porhibited Transaction Exemption 86-128 have been assigned OMB control number 1210-0059 and are approved for use through March 31, 1991.

Signed at Washington, DC, this 24th day of May 1988.

David M. Walker,

Assistant Secretary, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88-12277 Filed 5-31-88; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 88-47; Exemption Application No. D-1316 et al.]

Grant of Individual Exemptions; Wake Surgical Consultants, Inc., et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Wake Surgical Consultants, Inc., Money Purchase Pension Plan and Trust (the Plan), Located in Raleigh, North Carolina

[Prohibited Transaction Exemption 88–47; Exemption Application No. D–7316]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of an 18.3% interest (the Interest) in a joint venture, Beechnut Development Co., by Dr. John P. Goodson to his individual account in the Plan for $167,500 in cash, provided such amount is not greater than the fair market value of the Interest on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 22, 1988 at 53 FR 13354.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Radiology and Imaging Services, Inc., Profit Sharing Plan and Trust (the Plan) Located in Akron, Ohio

[Prohibited Transaction Exemption 88–48; Exemption Application No. D–7382]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale for cash of certain real property (the Real Property) by the individual account in the Plan belonging to Richard D. Patterson, M.D. (Dr. Patterson) to Dr. Patterson, a participant in and party in interest with respect to the Plan, provided that the sale price be no less than the greater of the fair market value of the Real Property on the date of sale as established by an independent qualified appraiser, or the total outlay by Dr. Patterson's individual account in the Plan in connection with its acquisition and holding of the Real Property to the date of sale to Dr. Patterson.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 22, 1988 at 53 FR 13355.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Saiter, Cameron and Snowden, Orthopaedic Associates, P.A., Profit Sharing Plan and Trust (the Plan), Located in Pensacola, Florida

[Prohibited Transaction Exemption 88–49; Exemption Application No. D–7429]

Exemption

The restrictions of Section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale for cash by the individual account in the Plan belonging to Joseph T. Saiter, M.D. (Dr. Saiter) of certain real property (the Real Property) to Dr. Saiter, a participant in and party in interest with respect to the Plan, provided that the sale price be no less than the fair market value of the Real Property on the date of sale as established by an independent qualified appraiser.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 22, 1988 at 53 FR 13358.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Williams, Taylor & Schmits Profit Sharing Plan and Williams, Taylor & Schmits Target Benefit Plan (the Plans) Located in Indianapolis, Indiana

[Prohibited Transaction Exemption 88–50; Exemption Application Nos. D–7449 and D–7450]

Exemption

The restrictions of section 406(a), 406(b) (1) and (b) (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Lease (the Lease) by the individual accounts in the Plans of Jerry Williams of a copier (the Copier) to Williams, Taylor & Schmits, Professional Corporation, the Plans' sponsor (the Plans' Sponsor) and party in interest with respect to the Plans, and to the sale (the Sale) of the Copier to the Plans' Sponsor at the end of a five year period, provided that the Lease and Sale be for no less than fair market value at the time of each transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 22, 1988 at 53 FR 13358.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 26th day of May 1988.

Robert J. Doyle,

Acting Associate Director, for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88–12273 Filed 5–31–88; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Maintenance Practices and Procedures; Meeting

The ACRS Subcommittee on Maintenance Practices and Procedures will hold a meeting on June 15, 1988, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Wednesday, June 15, 1988—8:30 a.m. until the conclusion of business.*

The Subcommittee will be briefed by RES on the current status of the Maintenance Rule.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. herman Alderman (telephone 202/634–1414) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: May 24, 1988.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88–12223 Filed 5–31–88; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability Assurance; Meeting

The ACRS Subcommittee on Reliability Assurance will hold a meeting on June 14, 1988, Room 1046, 1717 H Street NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Tuesday, June 14, 1988—8:30 a.m. until the conclusion of business.*

The Subcommittee will be briefed on the final outcome of the Equipment Qualification-Risk Scoping Study. An update on the implementation of the resolution of USI A–46, "Seismic Qualification of Equipment in Operating Nuclear Power Plants," is also planned.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1414) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named

individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: May 24, 1988.

Morton W. Libarkin,

Executive Director for Project Review.

[FR Doc. 88-12224 Filed 5-31-88; 8:45 am]

BILLING CODE 7590-01-M

Issuance and Availability, Proposed Resolution for Public Comments, Unresolved Safety Issue (USI) A-40, Seismic Design Criteria

The U.S. Nuclear Regulatory Commission (NRC) staff is issuing for public comment the proposed resolution for Unresolved Safety Issue (USI) A-40, "Seismic Design Criteria." The following documents are included in the proposed resolution: (1) Proposed Revision 2 to sections 2.5.2. (Vibratory Ground Motion), 3.7.1 (Seismic Design Parameters), 3.7.2 (Seismic System Analysis), and 3.7.3. (Seismic Subsystem Analysis) of NUREG-0800, Standard Review Plan (SRP); (2) Draft NUREG-1233, "Regulatory Analysis for USI A-40, "Seismic Design Criteria", (3) NUREG/CR-1161, "Recommended Revisions to Nuclear Regulatory Commission Seismic Design Criteria"; and (4) NUREG/CR-3480, "Value/Impact Assessment for Seismic Design Criteria." In addition, public comments are solicited on specific questions on Soil-Structure Interaction (SSI).

USI A-40 was initiated in 1977 with the following objectives; (1) To investigate selected areas of the seismic design sequence and quantify margins, if any, in the design process; and (2) to modify criteria in the SRP if changes were found to be justified. Early activities for USI A-40 consisted of specific technical studies which concentrated on improvements in seismic design criteria. A technical overview and specific recommendations for changes to seismic design criteria are documented in NUREG/CR-1161. Based on the recommendations made in NUREG/CR-1161, NUREG/CR-3480, and additional staff work discussed in Draft NUREG-1233, the staff has proposed Revisions to the SRP section 3.7.1, 3.7.2, and 3.7.3. The proposed SRP sections will be used in review of new construction permits and operating license applications. In addition to the SRP revisions, the staff has also proposed review of large above-ground vertical tanks at some operating nuclear plants. Methods and procedures for such review are included in the proposed implementation plan in Draft NUREG-1233. Change to SRP section 2.5.2 are also included to reflect current staff review practice (since about 1980). Comments are being solicited from interested organizations, groups, and individuals. The staff will evaluate comments received and address them as appropriate in the final documents.

Significant results have recently become available from the joint EPRI/NRC/Taiwan Power Company (TPC) soil-structure interaction Lotung experiment in Taiwan. These results were presented in an EPRI/NRC/TPC-sponsored workshop in December 1987. The SRP revisions being issued for comment do not reflect results of the Lotung experiments. The NRC has formulated specific questions on the Lotung results and is soliciting comments on them during the public comment period. If further modification to SRP sections 3.7.1, 3.7.2, and 3.7.3 are warranted as a result of the Lotung data, it will be done following the public comment period.

Copies of the documents included in the proposed resolution to USI A-40 are available for inspection, or copying for a fee, at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Copies are being sent directly to utilities, utility industry groups and associations, and environmental and public interest groups. A free single copy of draft NUREG-1233 is available to the extent of supply by writing to the U.S. Nuclear Regulatory Commission, ATTN: Distribution Section Stop P-522, Washington, DC 20555. Copies of NUREG/CR-1161 and NUREG/CR-3480 are available for purchase from the U.S. Government Printing Office, Post Office Box 37082, Washington, DC. 20013-7082. Copies will be made available upon request at a Commission's Local Public Document Room located in the vicinity of a nuclear power plant. To request that copies be placed in a Local Public Document Room, contact: the Local Public Document Room Program Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone toll free (800) 638-8081.

Comments should be sent to Mr. Robert Baer, Division of Engineering, U.S. Nuclear Regulatory Commission, Washington, DC, 20555 by July 29, 1988.

Dated at Rockville, Maryland, this 18th day of May 1988.

For the Nuclear Regulatory Commission.

Robert J. Bosnak,

Deputy Director, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 88-12204 Filed 5-31-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric & Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing; Correction

On May 23, 1988, the NRC published a Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing (53 FR 18364). The date in the first sentence of the last paragraph on page 18364 should read "June 22, 1988" instead of "June 20, 1988" as the date by which the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Dated at Bethesda, Maryland, this 25th day of May 1988.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management.

[FR Doc. 88-12205 Filed 5-31-88; 8:45 am]

BILLING CODE 7590-01-M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 9, 1988 through May 20, 1988. The last biweekly notice was published on May 18, 1988 (53 FR 17776).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resource Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 1, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it 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 (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests

for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529 and STN 50-530, Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2 and 3, Maricopa County, Arizona

Date of amendment request: April 6, 1988

Description of amendment request: The proposed amendment consists of changes to the Technical Specifications (Appendix A to Facility Operating License Nos. NPF-41, NPF-51, and NPF-74 for PVNGS Units 1, 2, and 3 respectively).

Technical Specification (TS) 3/4 3.3.8 specifies the operability requirements for the radioactive gaseous effluent monitoring instrumentation channels. TS 3/4.11.2.5 specifies limits for the concentration of oxygen in the waste gas holdup system whenever the hydrogen concentration exceeds 4 per cent by volume, and also specifies surveillance requirements for determining the hydrogen or oxygen concentrations. The proposed change will make the assumption that the hydrogen concentration is always greater than 4 per cent, and will delete requirements to analyze the waste gas holdup system for hydrogen. The requirement to sequentially analyze the Chemical and Volume Control System (CVCS) tanks and the Waste Gas Decay Tank (WGDT) for oxygen will also be deleted. By continously monitoring the header to the Surge Tank for oxygen concentration, the intent to monitor each of the CVCS tanks is satisfied.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensees have provided a discussion of the proposed changes they as relate to these standards; the discussion is presented below.

Standard 1 - Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The design basis accident with respect to the Gaseous Radwaste System is a rupture of a WGDT. It is assumed that the cause is either an explosion or an operator error. The probability of an explosion occurring does not increase since the source of the gases (Surge Tank) pumped to the WGDT is still being monitored with dual analyzers for an explosive mixture. It will be assumed that the Surge Tank contains greater than 4 per cent by volume hydrogen and the applicable action statements will be implemented based upon the sensed oxygen concentration as measured by the oxygen analyzers. Furthermore, upon receiving a high oxygen concentration alarm (2 per cent by volume) chemistry will be required to obtain a grab sample of the online WGDT for oxygen concentration. Since the WGDT's are pressurized, air inleakage is improbable from any source other than the Waste Gas compressors. Section 11.3.1.1.4 of the FSAR maintains "only in the unlikely event of simultaneous failure of both diaphragms of the compressors does the potential for leakage exist." Therefore, deleting the requirement of sampling the WGDT does not increase the probability of the accident occurring.

The chances of an event initiated by operator error does not change since the proposed change does not affect operator actions as they are presently being performed. All sampling is done automatically and will continue to be automatic. The number of valve lineups will not change nor will the extent of the valve lineups change.

An additional event to consider is the rupture of the Holdup Tank (HUT). The HUT, which is vented to atmosphere, will no longer be monitored periodically by the sampling system. By considering the volumes of unstripped water necessary to bring the HUT atmosphere to an explosive mixture, it is improbable that the explosive limit would ever be reached. Calculations show that it would require the addition of 300,000 gallons of unstripped RCS water. The calculation assumes that the hydrogen content in the water is 50cc/kg, (the maximum concentration maintained in the RCS, and that the HUT remains a closed system during the RCS) addition.

In reality the HUT is vented to the Fuel Building HVAC system which maintains a slight negative pressure in the tank. Also, there's no way to add that amount of water with a hydrogen overpressure to the HUT. The main influent of hydrogen saturated water is letdown, which is controlled by RCS makeup requirements of dilution evolutions. In the case of dilutions, the maximum amounts will occur at end of core life with the additions of 5,000 gallons being the largest. Other periods of excessive letdown occur when a plant heatup is conducted. In going from an average temperature of 200 degrees to 593 degrees, a volume change occurs in the RCS of about 15,000 gallons. This could conceivably all be directed around the Gas Stripper and to the HUT, but is insignificant in comparison with the amount necessary to reach an explosive mixture.

In all cases the rupture of the HUT is bounded by a rupture of the Refueling Water Tank (RWT) which is the limiting accident in the accident analyses per Section 15.7.2 of the FSAR. The probability of RWT rupture is in no way affected by this proposed change.

The consequences of a WGDT rupture will not change since the proposed change does not affect the concentrations of radionuclides assumed present in the accident analysis. Therefore, the probaility or consequences of an accident previously evaluated will not be increased.

Standard 2 - Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated

The main purpose of the waste gas holdup system is to contain radioactive gases for a sufficient amount of time in order to allow for decay. Therefore, the malfunction or accident of concern would be an event that would release the radioactive gas to the environment. This has already been analyzed in Chapter 15 of the FSAR.

The Chapter 15 analysis assumes the initiating event of a WGDT rutpure is an explosion or operator error. A dispersal to the environment of a freshly filled WGDT or Surge Tank is the only accident or malfunction possible and is already analyzed and bounded by the Chapter 15 analysis of a WGDT rupture. Therefore, the possibility of a new or different accident from any accident previously evaluated will not be created.

Standard 3 - Involve a Significant Reduction in a Margin of Safety. The proposed change increases the margin of safety as defined in the basis of the

Technical Specifications since it will be assumed that the waste gas holdup system always has a hydrogen concentration greater than 4 per cent by volume when in service. The applicable action statement will be complied with whenever measured oxygen concentration exceeds 2 per cent or 4 per cent respectively. Therefore, the existing margin of safety ensured by the TS is not reduced by this proposed change.

The staff has reviewed the licensees' no significant hazards consideration determination and agrees with the licensees' analysis.

Accordingly, the Commission has proposed to determine that the above change does not involve a significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: Mr. George W. Knighton

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Nos. 1 and 2, Ogle County, Illinois

Date of application for amendments: March 10, 1988, supplement April 21, 1988

Description of amendments request: The amendments would revise Technical Specifications to reduce the composition of the Onsite Nuclear Safety Group from four members to three members.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and has determined that it involves no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

The proposed change reduces the composition of the Onsite Nuclear Safety Group (ONSG) from four members to three members. This changes does not modify the mission of the ONSG, but allows the licensee to be more efficient in performing its audit, surveillance, and information gathering functions. As a result, the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not include any physical changes or modifications to the facility. As such, the changes do not create the possibility of a new or different kind of accident from any previously analyzed.

Since the ONSG will continue to perform its defined mission, this change does not affect the margin of safety.

Therefore, based upon the previous analysis, the staff concludes that the proposed amendment to the Technical Specifications does not involve significant hazards considerations.

Local Public Document Room location: Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101.

Attorney to licensee: Michael Miller, Esq., Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Leif J. Norrholm

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: April 26, 1988

Brief description of amendment: The proposed amendments to Operating License No. NPF-11 and Operating License No. NPF-18 would revise the LaSalle Units 1 and 2 Technical Specifications by providing additional requirements for monitoring core performance and other actions to be taken by the reactor operator in the high power/low flow region of the power-to-flow map. These changes are a result of NRC concerns due to the March 9, 1988 dual recirculation pump trip at LaSalle Unit 2. These changes are unique to LaSalle and are an interim solution to NRC concerns until power-to-flow stability issues arising from the event at LaSalle are resolved. The proposed amendments add a new specification for recirculation system thermal hydraulic stability. They also clarify the specification on the reactor recirculation system and revise the bases to reflect these changes. The new specification, as well as the clarifications, follows the guidance of General Electric SIL-380 and similar approaches in other standardized Technical Specifications. These specifications are similar for Units 1 and 2.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the NRC staff agrees, that the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because the stability monitoring provisions contained herein are more restrictive (conservative) than the presently approved specification, and as such, increase the margin of safety during operation of the plant. The proposed revisions assure increased operator awareness of the core, neutron flux and thermal hydraulic status.

Significantly more conservative actions are dictated than previous specifications, including reactor scram under certain specified conditions. These actions are evaluated to bound all existing safety requirements and therefore will not increase the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed revisions do not authorize operation in any new regions or configurations, but only provide for increased stability monitoring and reduced time in configurations of possible instability. No changes to the operational modes of plant systems are involved in these Technical Specifications changes.

3. Involve a significant reduction in the margin of safety because the specification revisions increase the margin of safety by reducing the allowable time inside regions of possible reactor instabilities. No significant changes to acceptance criteria for operation are involved. The provisions of these changes are consistent or more conservative than previously approved Technical Specifications for thermal hydraulic stability monitoring.

Local Public Document Room location: Public Library of Illinois, Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Attorney to licensee: Michael Miller, Esq., Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Acting Director: Leif J. Norrholm

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment requests: December 2, 1986, as supplemented November 5, 1987 and April 11, 1988

Description of amendment requests: In accordance with the requirements of 10 CFR 73.55, the Florida Power and Light Company submitted amendments to the Physical Security Plan for the St. Lucie Plant, Units No. 1 and No. 2 to reflect recent changes to that regulation. The proposed amendments would modify paragraph 2.D of Facility Operating Licenses No. DPR-67 and NPF-16 to require compliance with the revised Plan.

Basis for proposed no significant hazards consideration determination: On August 4, 1986 (51 FR 27817 and 27822), the Nuclear Regulatory Commission amended Part 73 of its regulations, "Physical Protection of Plants and Materials," to clarify plant security requirements to afford an increased assurance of plant safety. The amended regulations required that each nuclear power reactor licensee submit proposed amendments to its security plan to implement the revised provisions of 10 CFR 73.55. The licensee submitted its revised Plan on December 2, 1986, as supplemented November 5, 1987 and April 11, 1988, to satisfy the requirements of the amended regulations. The Commission proposes to amend the licenses to reference the revised Plan.

In the Supplementary Materials accompanying the amended regulations, the Commission indicated that it was amending its regulations "to provide a more safety conscious safeguards system while maintaining the current levels of protection" and that the "Commission believes that the clarification and refinement of requirements as reflected in these amendments is appropriate because they afford an increased assurance of plant safety."

The Commission has provided guidance concerning the application of the criteria for determining whether a significant hazards consideration exists by providing certain examples of actions involving no significant hazards considerations and example of actions involving significant hazards considerations (51 FR 7750). One of these examples of actions involving no significant hazards considerations is example (vii), "a change to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." The changes in this case fall within the scope of the example. For the foregoing reasons, the Commission proposes to determine that the proposed amendments involve no significant hazards considerations.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment requests: December 2, 1986, as supplemented November 12, 1987 and April 13, 1988

Description of amendment requests: In accordance with the requirements of 10 CFR 73.55, the Florida Power and Light Company submitted amendments to the Physical Security Plan for the Turkey Point Plant, Units No. 3 and No. 4 to reflect recent changes to that regulation. The proposed amendments would modify Facility Operating Licenses Nos. DPR-31 and DPR-41 to require compliance with the revised Plan.

Basis for proposed no significant hazards consideration determination: On August 4, 1986 (51 FR 27817 and 27822), the Nuclear Regulatory Commission amended Part 73 of its regulations, "Physical Protection of Plants and Materials," to clarify plant security requirements to afford an increased assurance of plant safety. The amended regulations required that each nuclear power reactor licensee submit proposed amendments to its security plan to implement the revised provisions of 10 CFR 73.55. The licensee submitted its revised Plan on December 2, 1986, as supplemented November 12, 1987 and April 13, 1988, to satisfy the requirements of the amended regulations. The Commission proposes to amend the licenses to reference the revised Plan.

In the Supplementary Materials accompanying the amended regulations, the Commission indicated that it was amending its regulations "to provide a more safety conscious safeguards system while maintaining the current levels of protection" and that the "Commission believes that the clarification and refinement of requirements as reflected in these amendments is appropriate because they afford an increased assurance of plant safety."

The Commission has provided guidance concerning the application of the criteria for determining whether a significant hazards consideration exists by providing certain examples of actions involving no significant hazards considerations and example of actions involving significant hazards considerations (51 FR 7750). One of these examples of actions involving no significant hazards considerations is example (vii), "a change to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." The changes in this case fall within the scope of the example. For the foregoing reasons, the Commission proposes to determine that the proposed amendments involve no significant hazards considerations.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: August 31, 1987

Description of amendment request: The proposed amendment would revise the Technical Specifications to delete the requirement that both emergency diesel generators (EDG's) must be operable before the Standby Gas Treatment and Standby Filter Unit systems are considered operable, and to add a requirement that certain auxiliary AC power sources and emergency filtration systems be available during core alterations. An additional proposed change to extend the EDG inspection interval from 1 year to 18 months was the subject of a separate action.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an

accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of each of the above criteria for the amendment request as follows:

(1) Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes to Specifications 3.7.B.1, 3.10.A.1 and their associated Bases to delete the requirement that both EDG's be operable before the Standby Gas Treatment System (SGTS) or Standby Filter Units (SFU's) are considered operable is consistent with existing DAEC TS definitions of "Operable-Operability" and "Limiting Conditions for Operation," Sections 3.6.5.3 and 3.7.2. of the Standard Technical Specifications, (STS) and the conditions assumed in the Final Safety Analysis Report (FSAR).

Section 15.6.6 of the licensee's FSAR addresses a complete loss of normal AC (offsite) power coincident with a design basis loss-of-coolant accident (LOCA). The most severe nuclear system effects and the greatest release of radioactive material to the primary containment result from the design basis LOCA. According to Section 15.7.2.2 of the licensee's FSAR, only one train of the SGTS and SFU systems is needed to mitigate the radiological effects of a LOCA, and one EDG can provide the power required for operation of these systems.

The licensee has also added Specification 3.9.D to require that certain auxiliary AC power sources and emergency filtration systems be available during core alterations. The addition of this Specification ensures that at least one normal offsite power source, one onsite emergency source (one EDG) and the associated emergency filtration systems are available when required.

Since the design and operation of the SGTS and SFU's will be unchanged, and a single EDG is sufficient to provide emergency power to these systems, the licensee concludes that the probability or consequences of a previously evaluated accident are not significantly increased.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes to Specifications 3.7.B.1, 3.10.A.1 and their associated Bases to delete the requirement that both EDG's be operable before the SGTS or SFU's are considered operable are consistent with existing DAEC TS definitions of "Operable-Operability" and "Limiting Conditions for Operation," Sections 3.6.5.3 and 3.7.2 of the STS, and the conditions assumed in the FSAR (the design basis of the plant). Furthermore, no changes are being made to the design, operation or setpoints of these systems. Therefore, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The addition of new Specification 3.9.D requiring that certain auxiliary AC power sources and emergency filtration systems be available during core alterations is conservative and does not create the possibility of a new or different kind of accident than any previously evaluated. The addition of the Specification ensures that at least one normal offsite power source, one onsite emergency power source (one EDG) and the required emergency filtration systems are available when required. One EDG has sufficient capacity to start and carry the loads required to maintain the plant in a safe condition.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed changes to Specifications 3.7.B.1, 3.10.A.1 and their associated Bases to delete the requirement that both EDG's be operable before the SGTS or SFU's are considered operable are consistent with existing DAEC TS definitions of "Operable-Operability" and "Limiting Conditions for Operation" and Sections 3.6.5.3 and 3.7.2 of the STS. Although the licensee proposes to delete the present requirement that two EDG's be operable before the SGTS or SFU's are considered operable, the addition of new Specification 3.9.D ensures that at least one EDG, one offsite power source and one train of both the SGTS and SFU system will be available during core alterations. Secondary containment integrity is required during core alterations, and the SGTs and SFU systems are required whenever secondary containment integrity is required. The licensee is proposing that one EDG (instead of two) be available when the SGTS and SFU systems are required. Ensuring the availablity of one EDG and one offsite power source assures that the conditions assumed in the FSAR are met and is also consistent with Sections 3.8.1.2 and 3.7.2 of the STS as well as the accident analysis in FSAR Section 15.7, "Radioactive Release from a System or Component." Therefore, there is no reduction in any margin of safety.

Based on an evaluation of the above licensee analysis, the Commission's staff has made a proposed determination that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: Kenneth E. Perkins.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 29, 1988

Description of amendment request: The amendment would modify the Technical Specifications Limiting Conditions for Operation, Surveillance Requirements and Bases to (1) revise relief valve setpoints for the Standby Liquid Control System (SLCS), (2) change the sodium pentaborate solution volume-concentration limits, (3) change the system pressure against which the minimum flow rate is verified and (4) clarify that pump suction is from the SLCS Storage Tank during surveillance testing.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (51 FR 7751). These examples include "A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations."

The proposed Technical Specifications changes are associated with SLCS modifications being implemented for conformance with 10 CFR 50.62 (ATWS Rule). The purpose of the SLCS modifications is to provide an increased rate of boron injection by the SLCS. The staff has previously evaluated the modifications and confirmed that they will result in compliance with the ATWS Rule. The proposed amendment is necessary to assure the modified SLCS is maintained operable and is therefore within the scope of the example cited above.

Since the application for amendment involves proposed changes that are encompassed by an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Jose A. Calvo

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: May 3, 1988

Description of amendment request: The amendment would modify the Technical Specifications to the setpoint limits for the undervoltage relays and timers for the emergency electrical power distribution system. The revised setpoints would be more conservative and provide increased safety margins in event of degraded grid voltage conditions.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (51 FR 7751). These examples include: A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: e.g., "a more stringent surveillance requirement."

The revised setpoints follow a plant modification in which solid-state relays replace induction-disk relays. The replacement relays have improved operating characteristics which permit the use of more conservative settings and reduced setpoint tolerances. Because the Limiting Conditions for Operation requirements will be revised to reflect the more stringent performance which the replacement instrumentation is capable, the proposed amendment is within the scope of the example.

Since the application for amendment involves proposed changes that are encompassed by an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Jose A. Calvo

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: March 7, 1988, as supplemented April 13, 1988.

Description of amendment request: The proposed amendment would revise Technical Specification sections 3.1.2 and 4.1.2 for the Liquid Poison System to incorporate changes required by 10 CFR 50.62, "Requirements for reduction of risk from anticipated transients without scram (ATWS) events for light-water-cooled nuclear power plants."

The proposed amendment is in accordance with the licensee's application of March 7, 1988, as supplemented April 13, 1988.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The proposed changes will not involve a significant increase in the probability or consequences of an accident for the following reasons.

The proposed changes will incorporate the equivalency equation for determining the concentration of sodium pentaborate solution enriched in the boron-10 isotope. These changes will allow the plant to operate in conformance with the requirement of 10 CFR 50.62(c)(4) by injecting sufficient boron into the reactor to bring the reactor to a hot shutdown in the event the control rods fail to insert. The changes will also meet the original design basis requirement to bring the reactor to cold shutdown, 3 percent delta k subcritical (0.97 k_{eff}) from 1850 megawatts thermal. Therefore, these changes will not result in a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated for the following reasons.

Injection of liquid poison solution into the reactor has been considered in the system design. Changing the enrichment level of boron-10 isotope does not change any chemical or other physical characteristics of the solution. Consequently, this change does not create the possibility of a new or different kind of accident.

The proposed changes will not involve a significant reduction in a margin of safety for the following reasons.

The Liquid Poison System must be able to inject sufficient neutron-absorbing boron-10 isotope to bring the reactor from the full design rating of 1850 megawatts thermal to greater than 3 percent delta k subcritical (0.97 k_{eff}) considering the combined effects of control rods, coolant voids, temperature change, fuel doppler, xenon, and samarium.

Injecting a minimum volume of 985 gallons of sodium pentaborate enriched with sufficient boron-10 isotope meets the requirements of the ATWS equivalency formula and satisfies the original design requirement to bring the reactor subcritical. Consequently, the margin of safety is not reduced by this change.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra, Director

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: March 18, 1988

Description of amendment request: The proposed amendment would revise Trojan Technical Specification (TS) Section 6.3 "Facility Staff Qualifications" by retitling the position "Radiation Protection Supervisor" to "Radiation Protection Branch Manager."

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) Involve a significant increase in the probability or

consequences of an accident previously evaluated; or (ii) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) Involve a significant reduction in a margin of safety. The Commission has also provided guidance concerning the application of these standards by providing certain examples (March 6, 1986, 51 FR 7751). An example of an amendment that is considered not likely to involve a significant hazards considerations is Example (i) is a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature.

Amendment No. 140 to Facility Operating License NPF-1 dated April 11, 1988 in part, approved the retitling of the Radiation Protection Supervisor to "Radiation Protection Branch Manager," as related to Figure 6.2-2, "Facility Organization." The proposed change involving the retitling of the position "Radiation Protection Supervisor" to "Radiation Protection Branch Manager" with respect to TS 6.3.1 is required to achieve consistency within TS Section 6.0, "Administrative Controls."

As such, the staff proposes to determine that the proposed request does not involve a significant hazards consideration.

Local Public Document Room location: Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207

Attorney for licensee: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204

NRC Project Director: George W. Knighton

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: December 7, 1987

Description of amendment request: The proposed amendment would clarify the license conditions governing receipt and possession of radioactive materials, as stated in Sections 2.B.(4) and 2.B.(5) of the Operating License. Currently, these sections do not explicitly address the receipt, possession, and use of radioactive equipment such as apparatus, components, and tools. Permission to receive, possess and use radioactive equipment is implicitly granted by the Operating License. The proposed clarification would minimize difficulties previously encountered when radioactive tools were transferred to the licensee from other utilities.

Basis for proposed no significant hazards consideration determination: In accordance with the Commission's Regulations in 10 CFR 50.92, the Commission has made a determination that the proposed amendment involves no significant hazards considerations. To make this determination, the staff must establish that operation in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The proposed amendment does not involve changes to the operation of the plant, procedural changes, or any physical changes to the plant's safety related structures, systems or components. The amendment only would clarify the license conditions which govern the receipt, possession, and use of radioactive apparatus, components, and tools needed for or produced by plant operation. The types and quantities of radioactive material in use at the plant would remain unchanged. Therefore, the analyses of previously evaluated accidents remain valid and the proposed amendment does not involve a significant increase in the probability or consequences of previously evaluated accidents. Additionally, since the proposed amendment would not change the types or quantities of radioactive material on hand at the facility, the probability of improper handling or use of these materials, or an unmonitored release, would not be increased. Therefore, the proposed amendment would not create the possibility of a new or different kind of accident.

Similarly, since the change is administrative in nature and only clarifies the license conditions for receipt, possession, and use of radioactive materials, no safety margins are affected. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

Because it has been established that plant operation in accordance with the proposed amendment would satisfy the three above stated criteria, the staff has, therefore, made a proposed determination that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra.

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: March 7, 1988

Description of amendment request: The proposed amendment would delete license condition 2.C.(3). This license condition grants relief from certain pump and valve testing requirements of 10 CFR 50.55a(g) as requested in the Hope Creek Inservice Testing (IST) Program, Revision 0 that was submitted by letter dated July 12, 1985. This license condition grants the relief requested in the Revision 0 IST Program until April 11, 1988 or until a detailed review of this IST Program has been completed, which ever comes first.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Prior to the staff's detailed review of the July 12, 1985, Revision 0, Hope Creek IST Program, PSE&G, by letter dated September 21, 1987 submitted Revision 1 to this IST Program. It stated that this revision supersedes the July 12, 1985 Revision 0 IST Program. The licensee augmented the September 21, 1987 submittal with additional information by letters dated January 14 and February 11, 1988. It requested that the NRC conduct a review and provide interim approval of this revised program until a complete review can be accomplished. This revised program incorporates the requirements of the 1983 Edition of ASME Code Section XI through summer 1983 addenda. It deletes some of the previous relief requests and adds some new relief requests. It also deletes some components from the program and incorporates some additional components not previously identified with the program.

The staff and its consultant, EG&G, Idaho, performed a preliminary review of this revision, with emphasis on requests for relief from the Code requirements. This review was documented in the staff's letters to the licensee dated December 7, 1987 and February 23, 1988. The review concluded that the program is reasonably complete with respect to all but five relief requests. Three of these relief requests were denied and two were determined to be unnecessary by the staff.

This preliminary review was not intended to replace a complete component-by-component review to ensure that all proposed tests in the program are in accordance with the Code requirements. A more thorough review will be conducted later and could result in further denials of relief requests or the need for additional components to be added to the program. The purpose of the preliminary review was to provide an assessment of the acceptability of Revision 1 to the Hope Creek IST Program for the period of time until the staff's review of the program is completed.

Based on this preliminary review, the staff concluded that, except for the above mentioned five relief requests, PSE&G should follow Revision 1 of the Hope Creek IST program to establish pump and valve operability for its plant operation until the final SER is issued. The staff also concluded that license condition 2.C.(3) which refers to Revision dated July 12, 1985 is no longer applicable and should be deleted. Since the license condition is no longer applicable, its deletion would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: March 8, 1988

Description of amendment request: On March 8, 1988, the licensee proposed an amendment to revise Sections 3.9.12, 5.3.1 and 5.6 of the Technical Specifications (TS). The proposed amendment would modify Figures 3.9-1 and 3.9-2 contained in Section 3.9.12, "Spent Fuel Assembly Storage," Section 5.3.1, "Fuel Assemblies," and Section 5.6, "Fuel Storage," to reflect the new storage limitations for the Vantage-5 fuel to be utilized in the core during the 5th cycle at the Virgil C. Summer Nuclear Station. The proposed change is necessary to place the required restrictions on the storage of fuel to ensure inadvertent criticality does not occur.

Figures 3.9-1 and 3.9-2 of Section 3.9.12 would be revised to indicate the minimum required fuel exposure as a function of initial enrichment to permit storage of fuel assemblies in Regions 2 and 3, respectively, of the spent fuel assembly storage racks. Section 5.3.1 would be revised to allow fuel of the Westinghouse Optimized Fuel Assembly (Vantage-5) design with a maximum enrichment of 4.25 w/o U-235 to be used. Existing TS allow a maximum enrichment of 4.3 w/o U-235. Section 5.6.1 is being revised to be consistent with the changes to Figures 3.9-1 and 3.9-2 and TS Section 5.3.1. TS 5.6.1 is proposed to be modified to reflect the new maximum enrichment of 4.25 w/o U-235 and to allow a minimum burnup of 10,000 megawatt days per metric ton uranium (MWD/MTU) in Region 2 and 39,750 MWD/MTU in Region 3.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Section 3.9.12 of the Virgil C. Summer Nuclear Station Technical Specifications provides the requirements for initial enrichment and cumulative exposure of spent fuel stored in the different regions of the multi-region spent fuel pool. Region 1 racks are highly poisoned racks, which can accept fuel initially enriched to the maximum licensed level with no restrictions on burnup. An analysis of the burnup history of each assembly is required prior to placement in either Region 2 or 3. A record of this analysis is maintained for the time period that the spent fuel assembly remains in that region of the pool. Figures 3.9-1 and 3.9-2 graphically depict the enrichment versus burnup requirements for Regions 2 and 3, respectively. The specification is applicable whenever fuel assemblies are stored in the spent fuel pool.

Section 5.3.1 of the Design Features portion of the Technical Specifications describes the physical attributes of the fuel assemblies utilized at the Virgil C. Summer Nuclear Station. Section 5.6 addresses fuel storage and specifically the criticality analyses for the storage racks utilized at the plant.

The licensee and the staff have determined that:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed change does not increase initial fuel enrichment or increase region average discharge burnups for the different regions of the fuel storage racks at the Virgil C. Summer Nuclear Station. The amendment request is the result of evaluations performed to support the utilization of Vantage-5 fuel for the 5th fuel cycle. These evaluations determined the requirements necessary to ensure the probability or consequences of previously analyzed accidents were not significantly increased.

2. The proposed amendment does not create the possibility of a new or different kind of accident than previously evaluated because the proposed amendment does not involve any physical changes to the existing fuel racks currently installed at the plant. The amendment only reduces the enrichment presently allowed in the Station's Technical Specifications and the minimum allowable burnup in Regions 2 and 3 of the spent fuel pool.

The licensee has also determined that:

3. The proposed amendment does not involve a significant reduction in a margin of safety. The proposed amendment is requested to ensure the design basis for preventing inadvertent criticality in the fuel storage areas is preserved. Therefore, the changes do not

involve a significant reduction in the margin of safety.

Based on the above reasoning, the licensee has determined that the proposed amendment does not involve a significant hazards consideration. The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that these changes do not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: April 28, 1988 (TS 88-07)

Description of amendment requests: TVA proposes to modify SQN Units 1 and 2 technical specifications to revise Table 3.6-2, "Containment Isolation Valves," to delete flow control valves (FCVs) 77-16 and 77-17. Table 3.6-1, "Bypass Leakage Paths to the Auxiliary Building," is also amended to delete penetration X-81 from the table.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

FCVs 77-16 and 77-17 were determined to not be environmentally qualified for their application as containment isolation valves. These valves are currently maintained in the closed position with power removed from the solenoid valves and control air disconnected. When valve replacement was evaluated, it was determined that there were no requirements to continually monitor the reactor coolant drain tank (RCDT) cover gas and little information to be obtained from sampling the cover gas. The RCDT is described in Section 11.2.3.1 of the SQN Final Safety Analysis Report (FSAR). The relative location of the RCDT in the waste disposal system is shown in FSAR Figure 11.2.2-1. The waste gas analyzer is described in FSAR Section 11.3.2, and its associated flow diagrams are the 11.2.3 series FSAR figures.

The RCDT serves as a collection point for reusable reactor coolant grade water from inside containment. The collected water is normally routed to the chemical and volume control system (CVCS) holdup tanks (HUTs) or the tritiated drain collector tank for processing. In the case, water chemistry is the concern, not cover gas chemistry.

The RCDT is operated with a nitrogen cover gas. The cover gas is provided by the nitrogen supply system described in FSAR Section 11.3.2. Also, the RCDT is normally aligned to the waste gas vent header (FSAR Figure 11.2.2-1). This alignment provides the ability to sample and analyze the RCDT cover gas. This is done by sampling the waste gas decay tank which is aligned to the waste gas compressors. The RCDT cover gas could also be sampled from the pressurizer relief tank (PRT) because pressure control valve (PCV) 68-301 (FSAR Figure 5.1-1) is normally open and the two cover gas atmospheres are in communication. Therefore, for normal operation the ability exists to sample the RCDT cover gas without relying on the gas analyzer sample line.

For post-accident conditions, the cover gas chemistry of the RCDT is not needed. No information of value would be obtained. In addition, all of the sampling lines isolate on a phase A isolation signal, and sampling is not possible.

In summary, the RCDT cover gas is not routinely sampled. Provisions do exist for sampling the cover gas, if necessary, without relying on the waste gas analyzer sample line from the RCDT. Under accident conditions, the sampling line is isolated, and RCDT cover gas chemistry is not determined. Therefore, instead of replacing the containment isolation valves, the valves will be removed and the sample line isolated.

Containment integrity will be provided by a welded cap in the annulus on a short section of the sample line after FCVs 77-16 and 77-17 are no longer required as containment isolation valves. A "mini" Type A test (Integrated Containment Leakage Rate) will be performed as a post-modification test to ensure containment leakage rates remain acceptable. The penetration will then be included in the scope of the Type A testing required by surveillance requirement 4.6.1.2. Because the penetration will terminated at the welded cap in the annulus, the potential for bypass leakage to the auxiliary building is eliminated. This allows penetration X-81 to be deleted from Table 3.6-1.

In conclusion, FCVs 77-16 and 77-17 may be removed because sampling of the RCDT cover gas is not prevented by removing the sample line to the waste gas analyzer. The valves will not be required for containment isolation because integrity will be provided by a welded cap on the sample line in the annulus. This allows the valves to be deleted from Table 3.6-2. Terminating the line in the annulus eliminates the potential bypass leakage path to the auxiliary building through its penetration. This allows the deletion of penetration X-81 from Table 3.6-1.

In its conclusion the licensee addressed the issue of no significant hazards consideration as follows:

(1) Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. Removal of containment isolation valves FCV-77-16 and FCV-77-17 and capping of the line from the RCDT to the gas analyzer will not degrade the function of any safety-related system. The ability exists to sample the cover gas if needed, without relying on the waste gas analyzer sample line. Additionally, the valves to be removed are not environmentally qualified and as such cannot be guaranteed to retain position for containment isolation purposes. These valves are currently maintained in the closed position with power removed from the solenoid valves and control air disconnected. Permanent closure of the line will ensure containment integrity. This will be verified by periodic Type A containment leak rate testing. The removal of these valves allows them to be deleted from Table 3.6-2. Because the penetration will terminate in the annulus, the potential bypass leakage path associated with it is eliminated and the entry is removed from Table 3.6-1. Because the function of all systems will remain intact and containment isolation is ensured, there is no increase in the probability or consequences of a previously evaluated accident.

(2) Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. Because the basic control, logic, and function of all safety-related equipment is unchanged and there is no potential for abnormal plant conditions because of the removal of the valves and capping of the line, the possibility of a new accident is not created.

(3) Does the proposed amendment involve a significant reduction in margin of safety?

No. The margin of safety for the SQN isolation scheme is established by the specification of containment isolation valves in Technical Specification Table 3.6-2. Capping of the sample line following removal of containment isolation valves FCV-77-16 and FCV-77-17 will ensure that containment isolation for that line is maintained at all times. This is verified by periodic Type A containment leak rate testing. Therefore, removal of these valves from Table 3.6-2 will not reduce the margin of safety of the containment isolation plan. The deletion of penetration X-81 from Table 3.6-1 will also not reduce the margin of safety. The entry is deleted to reflect that a bypass leakage path is no longer associated with this penetration because the line is capped in the annulus.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County

Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Acting Assistant Director: Robert A. Hermann

Yankee Atomic Electric Company Docket No. 50-029 Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: November 25, 1986, December 7, 1987 and May 6, 1988

Description of amendment request: In accordance with the requirements of 10 CFR 73.55, the licensee submitted an amendment to the Physical Security Plan for the Yankee Nuclear Power Station to reflect recent changes to that regulation. The proposed amendments would modify paragraph 2.C(3) of Facility Operating License DPR-3 to require compliance with the revised plan.

Basis for proposed no significant hazards consideration determination: On August 4, 1986 (51 FR 27817 and 27822), the Nuclear Regulatory Commission amended Part 73 of its regulations, "Physical Protection of Plants and Materials," to clarify plant security requirements to afford an increased assurance of plant safety. The amended regulations required that each nuclear power reactor licensee submit proposed amendments to its security plan to implement the revised provisions of 10 CFR 73.55. The licensee submitted its revised plan on November 25, 1986, December 7, 1987 and May 6, 1988, to satisfy the requirements of the amended regulations. The Commission proposed to amend the license to reference the revised plan. In Supplementary Materials accompanying the amended regulations, the Commission indicated that it was amending its regulations "to provide a more safety conscious safeguards system while maintaining the current levels of protection" and that the "Commission believes that the clarification and refinement of requirements as reflected in these amendments is appropriate because they afford an increased assurance of plant safety."

The Commission has provided guidance concerning the application of the criteria for determining whether a significant hazards consideration exists by providing certain examples of actions involving significant hazards considerations (51 FR 7750). One of these examples of actions involving no significant hazards consideration is example (vii) "a change to conform a license to changes to facility operations clearly in keeping with the regulations." The changes in this case fall within the scope of the example. For the foregoing reasons, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: Richard H. Wessman

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application 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 to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. 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 local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529 and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2 and 3, Maricopa County, Arizona

Date of application for amendments: April 8, 1988

Brief description of amendments: The amendments revise Section 5.3.1 of the Technical Specifications for each unit to provide for limited substitution of fuel rods by filler rods consisting of Zircaloy-4 or stainless steel, or by vacancies, if justified by a cycle specific reload analysis. Specification 5.3.1 for Unit 1 is also revised to reflect a limitation on fuel storage previously established in Amendment No. 24 to NPF-41.

Date of issuance: May 20, 1988

Effective date: May 20, 1988

Amendment Nos.: 34, 21 and 8

Facility Operating License Nos. NPF-41, NPF-51 and NPF-74: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** April 18, 1988 (53 FR 12736) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 20, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004

Baltimore Gas and Electric Company, Docket No. 50-317, Calvert Cliffs Nuclear Power Plant, Unit No. 1, Calvert County, Maryland

Date of application for amendment: February 12, 1988, as supplemented on March 21, March 25 (2 letters) and April 14, 1988.

Brief description of amendment: The amendment would make the following changes:

1. Modify Technical Specification (TS) Limiting Condition for Operation (LCO) 3.1.1.4 by adding a figure that provides the upper limits for moderator temperature coefficient (MTC) and increases this MTC limit for thermal power levels above 70% rated thermal power (RTP) from less positive than 0.2 E-4 delta k/k/° F to the linear equation where the MTC limit is less positive

than +[(.9 + 4 (1-P))/3] E-4 delta k/k/° F where P is the fraction of RTP. Thus, at 70% RTP, MTC must be less positive than 0.7 E-4 delta k/k/° F and at 100% RTP MTC must be less positive than +0.3 E-4 delta k/k/° F.

2. Increase the minimum required shutdown margin of TS LCO 3.1.1.1 above the currently required +3.5 delta k/k in accordance with the linear progression where the shutdown margin limit shall be greater than or equal to +[3.5 + 1.5(P)] delta k/k/ where P is the fraction of core life. Thus, at beginning of cycle the shutdown margin limit is +3.5 delta k/k but at end of cycle the limit is +5.0 delta k/k.

3. Change the TS Figure 3.1-2, "CEA Group Insertion Limits vs. Fraction of Allowable Thermal Power for Existing RCP Combination," Bank 5 Transient Insertion Limit from the linear progression with values of 25% insertion at 90% RTP and 35% insertion at 100% RTP to a constant insertion limit of 35% between 90% and 100% RTP.

4. Reduce unnecessary Axial Shape Index (ASI) trips below 70% RTP and provide additional operation flexibility by:

a. modifying TS Figure 2.2-1, "Peripheal Axial Shape Index vs. Fraction of Rated Thermal Power," by increasing the acceptable operation region below 70% RTP to the area bounded by the linear equations for the ASI limits, where:

(1) ASI limit = ±[.6 + 2/3 (.4-P)] (P is the fraction of RTP) between 40% and 100% RTP, and

(2) ASI limit = ±0.6 at powers below 40% RTP.

The current ASI limits are ±0.4 at powers below 70% TRTP;

b. expanding the acceptable operation region of TS Figure 3.2-2, "Linear Heat Rate Axial Flux Offset Control Limits," and TS Figure 3.2-4, "DNB Axial Flux Offset Control Limits," by increasing the negative ASI limit below 50% RTP from the current value of -0.3 to

(1) the linear equation limit, between 15% and 50% RTP, of the negative ASI limit = -[0.3 + 3/7 (.5-P)], where P is the fraction of RTP;

(2) below 15% RTP, the negative ASI limit = -0.45.

5. Reflect the lowering of the departure from nucleate boiling ratio (DNBR) limit to 1.15 due to the incorporation of an extended statistical combination of uncertainties methodology through modifying Figures 2.2-2, "Thermal Margin/Low Pressure Trip Setpoint Part 1 (ASI v. A_1)," and 2.2-3, "Thermal Margin/Low Pressure Trip Setpoint Part 2 (Fraction of Rated Thermal Power v. QR_1)," by

a. changing the equation for the pressure variable trip from

P (TRIP VAR) = 2061 (Q_{DNB}) + 15.85 (T_{IN}) - 8915 to

P (TRIP VAR) = 2892 Q_{DNB} + 17.16 (T_{IN}) - 10682;

b. changing Q_{DNB}, which equals QR_1 X A_1, by increasing QR_1 from the values of:

QR_1 = .235 + (628/7810) P between 0% and 78.1% RTP

QR_1 = .863 + (109/191)x(P-.781) between 78.1% and 97.2% RTP

QR_1 = P above 97.2% RTP

to

QR_1 = .3 + (11/12)P between 0% and 60% RTP

QR_1 = .85 + (3/8)x(P-.6) between 60% and 100% RTP

QR_1 = P above 100% RTP

where P is the fraction of RTP.

Date of issuance: May 16, 1988

Effective date: May 16, 1988

Amendment No.: 130

Facility Operating License No. DPR-53. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 15, 1988 (53 FR 12618) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 16, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: January 14, 1988

Brief Description of amendment: Revision to Technical Specifications to allow submittal of a supplement to the January semi-annual release report, correction of numbering and the elimination of a page.

Date of issuance: May 10, 1988

Effective date: May 10, 1988

Amendment No.: 116

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 24, 1988 (53 FR 5486) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Dates of application for amendments: November 26, 1986 and September 23, 1987

Description of amendments: These amendments modify the License Condition in Operating License DPR-71 by deleting sections 2.D(1), 2.D(2) and 2.D(3) and by adding a new License Condition as section 2.D., and the License Condition in Operating License DPR-62 by deleting sections 2.C(6), 2.C(7) and 2.C(8) and adding a new License Condition under section 2.C(6) to require compliance with the amended Physical Security Plan.

Date of issuance: May 18, 1988

Effective date: May 18, 1988

Amendment Nos.: 118 and 152

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revised the Licenses.

Date of initial notice in **Federal Register:** April 6, 1988 (53 FR 11366) The Commission's related evaluation of the amendments is contained in a Safeguards Evaluation Report dated May 18, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan

Date of application for amendment: December 14, 1987

Brief description of amendment: This amendment revises Technical Specification 5.2.1(b) to allow inclusion of all reloads of the "I" fuel design. Past practice has been to identify each cycle reload individually and routinely change the Technical Specifications even though fuel design was not being altered. This change permits future reloads of "I" fuel to be performed by the licensee under 10 CFR 50.59. Any future reloads containing fuel with a design other than the "I" fuel would require a Technical Specification amendment.

Date of issuance: May 17, 1988

Effective date: May 17, 1988

Amendment No.: 90

Facility Operating License No. DPR-6. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** March 9, 1988 (53 FR 7589) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 17, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Dairyland Power Cooperative, Docket No. 50-409, La Crosse Boiling Water Reactor, (LACBWR) La Crosse, Wisconsin

Date of application for amendment: September 24, 1987 as revised March 28 and April 28, 1988.

Brief description of amendment: This amendment revises the Physical Security Plan (which includes the Security Force Training and Qualification Plan and the Safeguards Contingency Plan) for LACBWR. The proposed amendment to this plan reflects a reduction in scope to cover only the storage of spent fuel. The basis for the change is premised on LACBWR being permanently shutdown on April 30, 1987, and the licensee's letter dated May 22, 1987 (LAC-12234) which requested that Provisional License No. DPR-45 for LACBWR be amended to a possession-only status. On June 12, 1987, all fuel had been removed from the reactor and stored in the Fuel Element Storage Well. The licensee's request for a possession-only status was approved by the NRC as reflected in License Amendment No. 56 which was issued on August 4, 1987.

The proposed amendment only eliminates areas, equipment, systems and procedures that have been deemed unnecessary for a nuclear power facility which has been permanently shutdown and requires the licensee to implement certain security measures commensurate with the risks associated with the storage of spent fuel.

Date of issuance: May 18, 1988

Effective Date: May 18, 1988

Amendment No.: 61

Provisional License No. DPR-45: This Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 5, 1988 (53 FR 11150) The Commission's related evaluation of the amendment is contained in Safety Evaluation dated May 18, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: March 15, 1985, as supplemented August 7 and November 8, 1985, March 7, April 14, and September 18, 1986, March 16 and August 11, 1987, and April 7, 1988.

Brief description of amendments: The amendments modified the Technical Specifications to increase the interval for surveillance of the ice condenser lower inlet doors.

Date of issuance: May 9, 1988

Effective date: May 9, 1988

Amendment Nos.: 44 and 37

Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 8, 1986 (51 FR 36087) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 9, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: February 5, 1988

Brief description of amendments: The amendments revised the Technical Specifications to delete the minimum fuel rod weight limit of 1766 grams of uranium.

Date of issuance: May 9, 1988

Effective date: May 9, 1988

Amendment Nos.: 81 and 62

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 6, 1988 (53 FR 11368) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 9, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: March 14, 1988

Brief description of amendments: The amendments change the Technical Specifications by removing obsolete text regarding the Upper Head Injection System.

Date of issuance: May 10, 1988

Effective date: May 10, 1988

Amendment Nos.: 82 and 63

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 6, 1988 (53 FR 11369) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 10, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: July 12, 1985, as supplemented April 14 and September 18, 1986, March 16 and August 11, 1987, and April 7, 1988.

Brief description of amendments: The amendments modified the Technical Specifications to increase the interval for surveillance of the ice condenser lower inlet doors.

Date of issuance: May 11, 1988

Effective date: May 11, 1988

Amendment Nos.: 83 and 64

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 27, 1986 (51 FR 30569) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 11, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Duquesne Light Company, Docket Nos. 50-334, and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: February 5, 1988

Brief description of amendments: The amendments correct a number of administrative errors, make editorial changes and clarify certain requirements in the existing Technical Specifications.

Date of issuance: May 13, 1988

Effective date: May 13, 1988

Amendment Nos. 125 (for Unit 1) and 2 (for Unit 2)

Facility Operating License Nos. DPR-66 and NPF-73. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 23, 1988 (53 FR 9502) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 13, 1988

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application of amendment: July 2, 1986, as supplemented February 6 and 9, March 2 and 27, and April 28, 1987.

Brief description of amendment: The amendment permitted Unit No. 1 spent fuel to be transferred from the Unit No. 1 spent fuel pool to the Unit No. 2 spent fuel pool.

Date of Issuance: May 10, 1988

Effective Date: May 10, 1988

Amendment No.: 30

Facility Operating License No. NPF-16: Amendment revised the License.

Date of initial notice in **Federal Register:** October 20, 1986 (51 FR 37242). Additional information was submitted since the initial notice in the **Federal Register**. The additional information did not alter, in any way, the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 10, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: March 17, 1988, as supplemented on March 28, 1988 and April 22, 1988.

Brief description of amendment: Removes corporate and unit organization charts from the Technical Specifications.

Date of Issuance: May 13, 1988

Effective date: May 13, 1988

Amendment No.: 139

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 6, 1988 (53 FR 11372). The March 28, 1988 and April 22, 1988 submittals proposed minor changes to conform with Generic Letter No. 88-06 on the same subject and issued on March 22, 1988. This was after the original GPU Nuclear submittal. The supplemental submittals do not change the scope of this amendment and does not alter the staff's initial no significant hazards consideration finding. The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated May 13, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: February 18, 1988 as revised March 22, 1988

Brief description of amendment: This amendment modifies Technical Specification 3.4.2.1. to change the setpoint tolerance of the safety valve function of the safety relief valves from ±1% to (+)0(-)2% of the set pressure.

Date of issuance: May 10, 1988

Effective date: May 10, 1988

Amendment No.: 22

Facility Operating License No. NPF-47. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 6, 1988 (53 FR 11372) The March 22, 19688 submittal corrected an editorial error and did not alter the staff's proposed no significant hazards consideration issued on April 6, 1988.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 10, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: September 4, 1987

Brief description of amendment: The amendment revises Table 4.3.6-1 of the TSs to (1) delete the daily channel functional test of the rod pattern control system low power setpoint and high power setpoint, and (2) clarify that the surveillance for the high power setpoint is applicable to Operational Condition 1, greater than the low power setpoint.

Date of issuance: May 10, 1988

Effective date: May 10, 1988

Amendment No.: 23

Facility Operating License No. NPF-47. The amendment revised the Technical Specifications and/or License.

Date of initial notice in **Federal Register:** December 16, 1987 (52 FR 47784). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 10, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Indiana Michigan Power Company, Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: November 2, 1987

Brief description of amendments: The amendments add incinerated oil surveillance and radioactive release requirements to the Radiological Environmental Technical Specifications (RETS).

Date of issuance: May 19, 1988

Effective date: May 19, 1988

Amendments Nos.: 115, 110

Facility Operating Licenses Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 16, 1987 (52 FR 47785). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 19, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: December 15, 1987

Brief description of amendments: Technical Specification changes related to effluent monitoring sampling pump and cooling tower blowdown instrumentation.

Date of issuance: May 3, 1988

Effective date: Units 1 and 2 are effective upon issuance, and are to be implemented prior to Unit 2 startup (currently scheduled for May, 1988)

following the second refueling and inspection outage.

Amendment Nos.: 80 and 46

Facility Operating License Nos. NPF-14 and NPF-22. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 23, 1988 (53 FR 9510) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 3, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: November 21, 1986 and September 24, 1987.

Brief description of amendments: These amendments modified paragraph 2.D of the licenses to require compliance with the amended Physical Security Plan.

Date of issuance: May 16, 1988

Effective date: May 16, 1988

Amendment Nos.: 81 and 47

Facility Operating License Nos. NPF-14 and NPF-22. These amendments revised License.

Date of initial notice in **Federal Register:** February 24, 1988 (53 FR 5494) The Commission's related evaluation of the amendments is contained in a letter to Pennsylvania Power and Light Company dated May 16, 1988 and a Safeguards Evaluation Report dated May 16, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket No. 50-388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendment: April 8, 1988

Brief description of amendment: Technical Specification changes reflecting cancellation of drywell fan modifications

Date of issuance: May 17, 1988

Effective date: May 17, 1988

Amendment No.: 48

Facility Operating License No. NPF-22. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 15, 1988 (53 FR 12625) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 17, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: August 16, 1985, as revised December 19, 1986 and April 20, 1988.

Brief description of amendment: The amendment permits relief from LCO 3.0.4 for Technical Specification (TS) Sections 3.2.4, 3.9.2, 3.9.7, 3.9.9, and 3.9.11.

In addition, this amendment documents that PGE instituted changes to Appendix A, Technical Specification Section 6.9, and Appendix B, Environmental Protection Plan Technical Specification Section 5.4 regarding written communications, as authorized by the Commission (See Federal Register (51 FR 40303), November 6, 1986).

Date of issuance: May 11, 1988

Effective date: May 11, 1988

Amendment No.: 142

Facility Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 10, 1988 (53 FR 3958). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 11, 1988

No significant hazards consideration comments received: No.

Local Public Document Room location: Portland State University Library, 731 S. W. Harrison St., Portland Oregon 97207

NRC Project Director: George W. Knighton

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: December 2, 1986 and September 4, 1987.

Brief description of amendment: The amendment modified paragraph 2.E of the license to require compliance with the amended Physical Security Plan. This Plan was amended to conform to the requirements of 10 CFR 73.55. Consistent with the provisions of 10 CFR 73.55, search requirements must be implemented within 60 days and miscellaneous amendments within 180 days from the effective date of this amendment.

Date of issuance: May 10, 1988

Effective date: May 10, 1988

Amendment No. 17

Facility Operating License No. NPF-57. This amendment revised the License.

Date of initial notice in **Federal Register:** March 23, 1988 (53 FR 9512) The Commission's related evaluation of the amendment is contained in a letter to Public Service Electric and Gas Company dated May 10, 1988. and a Safeguards Evaluation Report dated May 10, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: January 14, 1988 (TS 237)

Brief description of amendments: The amendments modify Technical Specification Tables 3.2.B and 4.2.K to correct identified inconsistencies.

Date of issuance: May 4, 1988

Effective date: May 4, 1999, and shall be implemented within 60 days

Amendments Nos.: 148, 144 and 119

Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 23, 1988 (53 FR 9517) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 4, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 17, 1987 (TS 87-33)

Brief description of amendments: The amendments add a new definition, "Bypass Leakage Paths To The Auxiliary Building," and make other related administrative changes to LCO 3.6.1 and Table 3.6-1.

Date of issuance: May 18, 1988

Effective date: May 18, 1988
Amendment Nos.: 71, 63
Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** November 4, 1987 (52 FR 42371) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 18, 1988.
No significant hazards consideration comments received: No
Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: May 12, 1987 (TS 87-15)
Brief description of amendments: These amendments add two valves to Table 3.6-2 which were inadvertently omitted and correct typographical errors.
Date of issuance: May, 16, 1988
Effective date: May 16, 1988
Amendment Nos.: 70, 62
Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 9, 1987 (52 FR 34020) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 16, 1988.
No significant hazards consideration comments received: No.
Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339 North Anna Power Station, Unit Nos. 1 and 2, Louisa County, Virginia

Date of application for amendments: December 16, 1986, as supplemented October 14, 1987 and February 14, 1988
Brief description of amendments: The amendment modified paragraph 2.E. of the license to require compliance with the amended Physical Security Plan. This Plan was amended to conform to the requirements of 10 CFR 73.55. Consistent with the provisions of 10 CFR 73.55, search requirements must be implemented within 60 days and miscellaneous amendments within 180 days from the effective date of this amendment.
Date of issuance: May 9, 1988
Effective date: May 9, 1988
Amendment Nos.: 100 and 87
Facility Operating License Nos. NPF-4 and NPF-7: Amendment revised the License.
Date of initial notice in **Federal Register:** April 6, 1988 (53 FR 11378) The Commission's related evaluation of the amendment is contained in a letter to Virginia Electric and Power Company dated May 9, 1988 and a Safeguards Evaluation Report dated May 9, 1988.
No significant hazards consideration comments received: No.
Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: March 3, 1988
Brief description of amendments: The amendments revised the NA-1&2 TS 3.4.7.14 regarding the operational status of NA-1&2 and the 18-month surveillance requirement for the diesel-driven fire pump. The changes allow operation of both units when conducting the surveillance by requiring the establishment and demonstration of operability of the backup fire suppression system when the diesel-driven fire pump is inoperable for performance of the 18-month inspection.
Date of issuance: May 9, 1988
Effective date: May 9, 1988
Amendment Nos.: 101 and 88
Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 23, 1988 (53 FR 9518) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 9, 1988.
No significant hazards consideration comments received: No.
Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: January 5, 1988
Brief description of amendment: The amendment adds surveillance requirements to the Technical Specifications related to the 480 volt emergency buses.
Date of issuance: May 18, 1988
Effective date: May 18, 1988
Amendment No.: 107
Facility Operating License No. DPR-3: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 17, 1988 (53 FR 8826) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 18, 1988.
No significant hazards consideration comments received: No
Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01310.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that 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.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. 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 local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By July 1, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 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 (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the 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).

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: May 9, 1988

Description of amendment request: The amendment changed the Technical

Specifications to increase the maximum allowed drop time for control element assemblies (control rods) from 3.0 to 3.2 seconds.

Date of issuance: May 16, 1988

Effective date: May 16, 1988

Amendment No.: 84

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with State of Arkansas, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated May 16, 1988.

Local Public Document Room location: Tomlinson Library, Arkansas Technical University, Russelville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street, NW., Washington, DC 20036

NRC Project Director: Jose A. Calvo

Southern California Edison Company, Docket No. 50-206, San Onofre Nuclear Generating Station, Unit 1, San Diego County, California

Date of application for amendment: March 10, 1988, as revised March 22 and 29, 1988.

Brief description of amendment: The amendment revised steam generator tube plugging criteria to allow tubes with defects in the rolled region of the tube sheet to remain in service until the next refueling outage, provided that the first inch of rolled tube contains no imperfections. This amendment grants the licensee's request in part, authorizing operation in the interim until the next refueling outage. A separate Notice addresses permanent change of the Technical Specifications relating to steam generator tube plugging criteria.

Date of issuance: May 6, 1988

Effective date: May 6, 1988 until the next refueling outage

Amendment No.: 101

Provisional Operating License No. DPR-13: Amendment revised the Technical Specifications.

Press release issued requesting comments as to proposed no significant hazards consideration: Yes, April 3, 1988 *Orange County* (California) *Register*

Comments received: No. The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of California and final determination of no significant hazards consideration are contained in a Safety Evaluation dated May 6, 1988.

Attorneys for licensee: Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esq., Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

Local Public Document Room location: General Library, University of California, P.O. Box 19557, Irvine, California 92713.

NRC Project Director: George W. Knighton

Dated at Rockville, Maryland, this 26th day of May, 1988.

For the Nuclear Regulatory Commission

Dennis M. Crutchfield,

Director, Division of Reactor Projects-III, IV, V and Special Projects Office of Nuclear Reactor Regulation

[Doc. 88-12203 Filed 5-31-88; 8:45 am]

BILLING CODE 7590-01-D

POSTAL SERVICE

Privacy Act of 1974; Matching Program—Postal Service/State of Florida Office of the Auditor General

AGENCY: United States Postal Service.

ACTION: Notice of Computer Matching Program—U.S. Postal Service/State of Florida Office of the Auditor General.

SUMMARY: The purpose of this document is to publish notice of the Postal Service's plan to participate as a source agency in a continuing computer matching program to detect fraud, waste, and abuse in the programs of Aid to Families with Dependent Children (AFDC) and food stamps administered by the State of Florida. The match will compare the Postal Service's Payroll System File (050.020, Finance Records—Payroll System) with the file of recipients of these benefits, as maintained by the Division of Public Assistance Fraud, State of Florida Office of the Auditor General.

DATE: The first match under this continuing program is expected to begin about June 1988.

ADDRESS: Send any comments to USPS Records Officer, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 8121, Washington, DC 20260–5010. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m. Monday through Friday at this address.

FOR FURTHER INFORMATION CONTACT: Barbara Fuller, Records Office (202) 268–5161.

SUPPLEMENTARY INFORMATION: On January 6, 1987, the Postal Service published notice (52 FR 480) of a one-time computer match to assist the Division of Public Assistance Fraud, State of Florida Office of the Auditor General (F–OAG), in its efforts to identify postal employees in Florida receiving AFDC and food stamp benefits through the State of Florida to which they were not entitled. The F–OAG has investigatory responsibility for these public assistance programs which are administered by the State of Florida Department of Health and Rehabilitative Services. That match resulted in the identification and removal of several employees from the benefit rolls, measures to improve state agency procedures/data, and a recoupment of monies substantially in excess of the cost of the match. The F–OAG has asked the USPS to conduct these matches on an annual basis. The USPS has agreed to participate in these matches so long as they prove to be cost effective and in compliance with the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget (47 FR 21656; May 19, 1982). Set forth below is the information required by paragraph 5.f.(1) of those Guidelines. A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Report of a Matching Program: U.S. Postal Service (USPS) and State of Florida Office of the Auditor General (F–OAG)

a. *Authority:* 39 U.S.C. 404.

b. *Program Description:* Under the planned program, the USPS will submit to the F–OAG a computer tape of the names and social security account numbers (SSANs) of postal employees in the State of Florida. The F–OAG will match that tape, using name and SSAN, against its tape of recipients of AFDC and food stamp benefits in the State of Florida. The purpose of this match is to identify postal employees who are receiving benefits to which they are not entitled under these public assistance programs. In instances where SSANs match, i.e., "hits," the USPS will disclose to the F–OAG the following information from its payroll file: name, SSAN, date of birth, home address, facility where employed, and gross wage information.

The validity of "matched" employee/benefit recipient information will be verified by the F–OAG using State of Florida Department of Health and Rehabilitative Services' (F–HRS) files. Subsequent actions may include the collection of outstanding debts owed for past benefit overpayments; the reduction, suspension or termination of benefit payments; and other appropriate

action against those employees fraudulently receiving benefits, but only after the individual has been afforded due process. Where there are reasonable grounds to believe there has been a violation of criminal law, the matter may be referred for Federal or State prosecution. Further, the USPS Inspection Service may participate in the investigation of hits as a result of this matching program and establish investigative case files within the parameters of Privacy Act system USPS 080.010, Inspection Requirements Investigative File System (last published in 48 FR 10975 of March 15, 1983). Disclosure of this information is authorized by routine use No. 28 in USPS 050.020, Payroll System, most recently published in 52 FR 6251 of March 2, 1987.

c. *Period of the Match:* The first match is expected to begin about June 1988. The matching program will be performed on a continuing, once-a-year, basis so long as the program proves cost effective.

d. *Security:* The F–OAG/F–HRS personnel who perform and verify the match will: (a) have the only access to the USPS computer tape; (b) use it solely for the purpose of the match as officially stated and for no other purpose; and (c) safeguard it from unauthorized access. Likewise, information on benefit recipients disclosed to the USPS will be used by authorized personnel only for the purpose of the match and for no other purpose and will be safeguarded from unauthorized access. All information exchanged as a result of this matching program will be maintained in locked file areas when not in use.

e. *Disposition of Records:* The F–OAG will neither retain nor copy the tape provided by the USPS and will return it to the USPS within six months from the date of its receipt or upon completion of the actual computer run (comparison), whichever is sooner. All information compiled as a result of this matching effort must be destroyed as soon as the determination is made that no fraud or irregularity has occurred.

f. *Further Comments:* No bestowed rights, privileges, or benefits will be terminated solely on the basis of a "hit" or the records provided by the USPS in connection with this program.

Fred Eggleston,

Assistant General Counsel Legislative Division.

[FR Doc. 88–12169 Filed 5–31–88; 8:45 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–25728; File No. SR–DTC–88–5]

Self Regulatory Organizations; Depository Trust Co.; Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("the Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 27, 1988, the Depository Trust Company ("DTC") filed a proposed rule change to establish fees for among other things, its underwriting service to distribute new issues of medium-term notes ("MTN's"). The Commission is publishing this notice to solicit comment on the rule change.

DTC recently expanded its Same-Day Funds Settlement Service to include medium-term notes as eligible corporate securities. Because of the variable terms of MTN issues and the short turnaround time on MTN issuances (frequently they settle on the next-day), DTC in conjunction with the MTN sales agents, has developed a system that provides for book-entry-only issuance and delivery of the securities. DTC states in its filing that the proposed fees are based on DTC's costs of providing these services. The underwriting fee will be charged to the sales agent or, in the absence of a sales agent, the issuing agent. These fees are to be effective for services provided after March 31, 1988.

The proposal establishes new fees for the following services:

(1) Maintenance of long positions; for each book-entry-only issue a monthly charge of $0.40 per issue, per month will be charged;

(2) Corporate issue underwritings; $205.00 plus $3.00 per million with a total maximum fee of $2,000.00 and any unusual expenses;

(3) Book-entry-only issues; $205.00 and any unusual expenses;

(4) Certificates of deposit; $105.00 and any unusual expenses; and

(5) Medium-term notes; $20.00 for each tranche and any unusual expenses.

DTC believes that the proposed rule change is consistent with the requirements of the Act in that it has adopted the proposed rule change pursuant to section 17A(b)(3)(D) which authorizes it to adopt reasonable fees for the services which it provides.

The rule change has become effective pursuant to section 19(b)(3)(A) of the Act. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

You may submit written comment within 21 days after notice is published in the **Federal Register.** Please file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, with accompanying exhibits, and all written comments, except for material that may be withheld from the public under 5 U.S.C. 552, are available at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of the filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–88–5.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: May 20, 1988.

[FR Doc. 88–12208 Filed 5–31–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25741; File No.SR–PCC–88–01]

Proposed Rule Change by Pacific Clearing Corp.; Relating to the Number of Directors Required To Serve on the Board of Directors of PCC

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 25, 1988, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organizations. 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 filing will amend Article II, section 2.2(a) of the Bylaws of PCC to reduce the minimum and the maximum number of directors required to serve on the PCC Board of Directors. The minimum number of directors required shall be reduced from ten to five, and the maximum shall be reduced from thirteen to seven.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for 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 Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to reduce the number of directors required to serve on the Board of Directors of Pacific Clearing Corporation ("PCC").

As Article II, section 2.2(a) now reads, the minimum number of directors required for the Board is ten, and the maximum is thirteen. PCC has resolved to reduce the minimum to five, and the maximum to seven. In other words, the number of directors would be between five and seven, rather than between ten and thirteen.

PCC is a wholly owned subsidiary of the Pacific Stock Exchange Incorporated ("PSE"). PCC, since its incorporation, offered its services to all self-clearing broker/dealers and banks who met PCC requirements. Thus, PCC offered its services to approximately 175 broker/dealers and banks, and 78 PSE specialists posts.

During 1987, PCC determined that its best interest would be served by repositioning its activities, and it resolved, (a) to reduce its customer base and, (b) to reduce the scope of the services it provided.

PCC now offers clearing services to approximately 74 PSE specialists posts, and only with respect to ex-clearing transactions, i.e., transactions not cleared by National Securities Clearing Corporation ("NSCC").

The substantial reduction in the activities of PCC warrants a similar reduction in its directorship.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PCC does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the 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 self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 22, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

May 24, 1988.

[FR Doc. 88-12209 Filed 5-31-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25742; File No. SR-PSDTC-88-01]

Proposed Rule Change by Pacific Securities Deposit Trust Corp.; Relating to the Number of Directors Required To Serve on the Board of Directors of PSDTC

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 25, 1988, the Pacific Securities Deposit Trust Corporation ("PSDTC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organizations. 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 filing will amend Article II, section 2.2.(a) of the Bylaws of the PSDTC to reduce the minimum and the maximum number of directors required to serve on the PSDTC Board of Directors. The minimum number of directors required shall be reduced from ten to five, and the maximum shall be reduced from thirteen to seven.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for 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 Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to reduce the number of directors required to serve on the Board of Directors of Pacific Securities Deposit Trust Corporation ("PSDTC").

As Article II, section 2.2.(a) now reads, the minimum number of directors required for the Board is ten, and the maximum is thirteen. PCC has resolved to reduce the minimum to five, and the maximum to seven. In other words, the number of directors would be between

five and seven, rather than between ten and thirteen.

PSDTC is a wholly owned subsidiary of the Pacific Stock Exchange Incorporated ("PSE"). PSDTC, since its incorporation, offered its services to all self-clearing broker/dealers and banks who met PSDTC requirements. Thus, PSDTC offered its services to approximately 175 broker/dealers and banks, and 78 PSE specialists posts.

During 1987, PSDTC determined that its best interests would be served by repositioning its activities, and it resolved, (a) to reduce its customer base and, (b) to reduce the scope of the services it provided.

PSDTC now offers depository services to approximately 74 PSE specialists posts and only with respect to ineligible securities, i.e., securities not eligible for deposit at Depository Trust Company.

The reduction in the activities of PSDTC warrants a similar reduction in its directorship.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PSDTC does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the 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 self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 22, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-12210 Filed 5-31-88; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-18373]

Application and Opportunity for Hearing; US Air, Inc.

May 25, 1988.

Notice is hereby given that US Air, Inc. (the "Company") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Meridian Trust Company (the "Bank") under eighteen indentures between the Company and the Bank, eight dated as of May 16, 1988 (the "May Indentures"), four dated as of March 1, 1988 (the "March Indentures") and six dated as of November 30, 1987 (the "November Indentures"), each of which were heretofore qualified under the Act (collectively, the "Indentures"), is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under any one of the Indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of that section provides, with certain exceptions stated thereien, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

The Company alleges:

(1) Pursuant to the May Indentures, the Company will issue $166,400,000 aggregate principal amount of its Equipment Trust Certificates (the "May Certificates"), Series A–L (the "May Series"), respectively. Series A–L will be issued, each under a May Indenture, in the principal amount of $20,800,000. The May Certificates were registered under the Securities Act of 1933 (the "1933 Act") and the May Indentures were qualified under the Act.

(2) Pursuant to the March Indentures, the Company has issued $78,498,000 aggregate principal amount of its Equipment Trust Certificates (the "March Certificates"), Series A–D (the "March Series"). Series A and B have been issued, each under a March Indenture, in the principal amount of $19,828,000. Series C and D have been issued, each under a March Indenture, in the principal amount of $19,421,000. The March Certificates were registered under the 1933 Act and the March Indentures were qualified under the Act.

(3) Pursuant to the November Indentures, the Company has issued $124,800,000 aggregate principal amount of its Equipment Trust Certificates (the "November Certificates"), Series A–F (the "November Series"). A Series has been issued under each November Indenture in the principal amount of $20,800,000. The November Certificates were registered under the 1933 Act and the November Indentures were qualified under the Act. (Collectively, the May Certificates, the March Certificates and the November Certificates are referred to herein as the "Certificates" and the May Series, the March Series and the November Series are referred to herein as the "Series.")

(4) There is no default under any of the Indentures.

(5) The Company's obligations with respect to each Series of Certificates are and will be secured under separate Indentures by separate security interests in separate and distinct property.

(6) Such differences as exist among the Indentures referred to herein and the respective obligations of the Company as obligor are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of the Indentures.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all

persons are referred to the application which is on file in the Offices of the Commission's Public Reference Section, File Number 22–18373, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested persons may, not later than June 18, 1988, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–12211 Filed 5–31–88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–16404; 812–6982]

Equitable Capital Partners, L.P., et al.; Application

May 18, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Equitable Capital Partners, L.P. (the "Enhanced Yield Fund"), Equitable Capital Partners (Retirement Fund), L.P. (the "Enhanced Yield Retirement Fund") (each a "Partnership" and collectively the "Partnerships") and Equitable Capital Management Corporation ("Equitable Capital").

Revelant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of sections 2(a)(19) and 2(a)(3)(D) of the 1940 Act.

Summary of Application: Applicants seek an order determining that (i) the Independent General Partners (as hereinafter defined) of each Partnership are not "interested persons" of such Partnership or of Equitable Capital by reason of being general partners of the Partnership and co-partners of Equitable Capital, (ii) the Independent General Partners of a Partnership will not be deemed to be "interested persons" of such Partnership by virtue of their service as Independent General Partners of the other Partnership, and (iii) persons who become limited partners (the "Limited Partners") of a Partnership who own less than 5% of the limited partnership interests in such Partnership will not be "affiliated persons" of the Partnership or any of its other partners solely by reason of their status as Limited Partners.

Filing Dates: The application was filed on February 1, 1988 and amended on May 13, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on June 8, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 1285 Avenue of the Americas, New York, New York 10019, Attention: James P. Pappas, Esq.

FOR FURTHER INFORMATION CONTACT: James E. Banks, Staff Attorney (202) 272–2190, or Brion R. Thompson, Special Counsel (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the above referenced application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. Each Partnership is a recently-formed limited partnership organized under Delaware law. Each Partnership has elected to be a business development company and, therefore, will be subject to sections 55 through 65 of the 1940 Act and to those sections of the 1940 Act made applicable to business development companies by section 59 thereof. The Partnerships will terminate no later than September 30, 1998 or 10 years from the final closing, if later, unless extended for up to two additional one-year periods.

2. The Partnerships filed a joint registration statement on Form N–2 (File No. 33–20093) under the Securities Act of 1933 with respect to an aggregate offering by the Partnerships of up to 300,000 units of limited partnership interest in the Partnerships (collectively, for both Partnerships, the "Units"). Merrill Lynch, Pierce, Fenner & Smith Incorporated will act as the selling agent for the Units on a "best efforts" basis.

3. The General Partners of each Partnership will consist initially of three (and in the future may be increased to nine) Independent General Partners (defined to be individuals who are natural persons and who are not "interested persons" of such Partnership within the meaning of the 1940 Act) and Equitable Capital, as managing general partner (the "Managing General Partner"). A majority of the General Partners must be Independent General Partners. Each Partnership Agreement provides that if at any time the number of Independent General Partners is less than a majority of the General Partners, then within 90 days thereafter, the remaining Independent General Partners shall designate and admit one or more Independent General Partners so as to restore the number of Independent General Partners to a majority of the General Partners. The Managing General Partner will be responsible for purchasing investments for a Partnership which have been approved by the Independent General Partners, for providing administrative services to the Partnership and for the admission of additional or assignee Limited Partners to the Partnership. Equitable Capital, as Managing General Partner, may subcontract with a third party for the provision of administrative services to the Partnerships. Equitable Capital will also act as the investment adviser to each Partnership pursuant to an investment advisory agreement (the "Advisory Agreement") between Equitable Capital and each Partnership. Under each Advisory Agreement, Equitable Capital will be responsible for the identification of all investments to be made by the respective Partnership and will perform other functions carried out by the investment adviser to a business development company. Equitable Capital, an indirect, wholly owned subsidiary of The Equitable Life Assurance Society of the United States, is a registered investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act").

4. Each Partnership will be managed solely by the Independent General

Partners thereof, except with regard to those specific activities of such Partnership for which Equitable Capital, in its capacity as the Managing General Partner or as the investment adviser of such Partnership, will be responsible. The Independent General Partners of a Partnership will provide overall guidance and supervision of Partnership operations and will perform the same functions as directors of a corporation. The Independent General Partners will assume the responsibilities and obligations imposed by the 1940 Act and the regulations thereunder on the non-interested directors of a registered investment company.

5. The Limited Partners of a Partnership have no right to control such Partnership's business, but may exercise certain rights and powers of a Limited Partner under the Partnership Agreement, including voting rights and the giving of consents and approvals provided for in such Partnership Agreement. Limited Partners will be afforded all voting rights required by the 1940 Act. It is the opinion of counsel to the Partnership, which is relying on the opinion of Delaware counsel, that the existence of these voting rights does not subject the Limited Partners to liability as General Partners under The Revised Uniform Limited Partnership Act of the State of Delaware. In addition, each Partnership Agreement will obligate the General Partners of such Partnership to take all such action which may be necessary or appropriate to protect the limited liability of the Limited Partners. An insurance policy to provide coverage to persons who become Limited Partners in the Partnerships has not been obtained. The Indepdentent General Partners of each Partnership will review periodically the question of the appropriateness of obtaining an errors and omissions insurance policy for the Partnership.

Applicants' Legal Analysis

1. Applicants request that each Partnership and the Independent General Partners of each Partnership be exempted from the provisions of section 2(a)(19) of the 1940 Act to the extent that the Independent General Partners would otherwise be deemed to be "interested persons" of a Partnership or of Equitable Capital as the Managing General Partner and investment adviser of a Partnership because such Independent General Partners are general partners of a Partnership and "co-partners" of Equitable Capital. Each Partnership has been structured so that the Independent General Partners are the functional equivalents of the non-interested directors of an incorporated investment company. Section 2(a)(19) of the 1940 Act excludes from the definition of "interested persons" of an investment company those individuals who would be "interested persons" solely because they are directors of an investment company, but there is no equivalent exception for partners of an investment company.

2. The Independent General Partners of a Partnership may be deemed to be "interested persons" of such Partnership by virtue of their service as Independent General Partners of the other Partnership. Applicants believe that service by the same individuals as Independent General Partners of both Partnerships, a relationship similar to one in which an individual serves as a director of multiple investment companies in the same complex, will be beneficial to both Partnerships. Thus, Applicants further request that the Independent General Partners of each Partnership be exempted from the provisions of section 2(a)(19) to the extent that they would otherwise be deemed to be "interested persons" of such Partnership solely by virtue of their service as Independent General Partners of the other Partnership.

3. Applicants request further that under section 2(a)(3)(D) of the 1940 Act any Limited Partner owning less than 5% of the Units of a Partnership not be deemed an "affiliated person" of such Partnership, any other Limited Partner, any of the Independent General Partners or Equitable Capital merely because such Limited Partner is a partner of the Partnership or a partner with any of such other persons in the Partnership. Since such Limited Partners have no exlcusion under the Act comparable to that provided under section 2(a)(3) to corporate shareholders with less than a 5% ownership interest, the requested relief will place investments in the Partnerships on a footing more equal with investments in business development companies organized as corporationa.

4. Applicants submit that the request for an order exempting the Independent General Partners of each Partnership from the provisions of section 2(a)(19) and certain Limited Partners from the provisions of section 2(a)(3)(D) of the 1940 Act is consistent with the provisions, policies and purposes of the 1940 Act.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditons:

1. Applicants agree that the Partnerships will be structured so that the Independent General Partners are the functional equivalents of the non-interested directors of an incorporated investment company registered under the 1940 Act.

2. Under each Partnership Agreement, a Partnership is authorized to make in-kind distributions of portfolio securities to its Partners. Applicants agree not to make any in-kind distributions of securities to Partners of a Partnership until such Partnership has either obtained a no-action letter from the staff of the SEC or, alternatively, has obtained an order pursuant to section 206A of the Advisers Act permitting such distribution.

3. Applicants will obtain an opinion of counsel satisfactory to the Independent General Partners of each Partnership that the distributions and allocations to the Managing General Partner of each Partnership can be paid in accordance with section 205 of the Advisers Act. Applicants do not request SEC review or approval of such opinion letter.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-12276 Filed 5-31-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 88-039]

Chemical Transportation Advisory Committee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Chemical Transportation Advisory Committee (CTAC). The meeting will be held on Friday, July 22, 1988 in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC. The meeting is scheduled to begin at 9:30 a.m. and end at 4:00 p.m.

The agenda for the meeting follows:

1. Call to order.
2. Introduction of CTAC/USCG Members
3. Opening Remarks
4. U.S. Coast Guard Initiatives
5. Presentation of New Members
6. Committee Activities
7. Report of the Subcommittee on Vapor Control

8. Report of the Subcommittee on Marine Occupational Safety and Health
9. Report of the Subcommittee on Tank-Filling Limits
10. Report on Survey of Tank Vent Requirements
11. Future Subcommittee Tasks
12. Coast Guard Presentations:
    a. International Activities
    b. IMO Subcommittee on Bulk Chemicals
    c. IMO Subcommittee on The Carriage of Dangerous Goods
    d. IMO Subcommittee on Containers and Cargos
13. Other Business
14. Closing Remarks
15. Adjournment.

Attendance is open to the public. Members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director of CTAC no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Commander R. W. Tanner, U.S. Coast Guard Headquarters (G-MTH-1), 2100 Second Street SW., Washington, DC, 20593, (202) 267-1577.

Dated: May 24, 1988.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 88-12149 Filed 5-31-88; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants the petition by Saab-Scania of America, Inc. (Saab) for an exemption from the parts-marking requirements of the vehicle theft prevention standard for the Saab 9000 car line. The agency grants this exemption under section 605 of the Motor Vehicle Information and Cost Savings Act. The agency has determined that the antitheft device which the petitioner intends to install on this line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts marking requirements.

DATE: The exemption granted by this notice will become effective beginning with the 1989 model year.

SUPPLEMENTARY INFORMATION: This agency received a submission dated December 21, 1987 from Saab-Scania of America, Inc. (Saab) seeking an exemption from the parts marking requirements of the vehicle theft prevention standard (49 CFR Part 541), pursuant to the requirements of 49 CFR Part 543, *Petitions for Exemption From the Vehicle Theft Prevention Standard.* NHTSA believed that Saab did not sufficiently address reasons for Saab's belief that the antitheft device will be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. On January 19, 1988, Saab was contacted and asked to provide the supplemental information. NHTSA received the required supplemental information on January 27, 1988.

The agency reviewed the December 21, 1987 and January 27, 1988 submissions and concluded that, together, they constituted a complete petition. Accordingly, January 27, 1988 is the date on which the statutory 120 day period for processing Saab's petition began. The agency further decided to grant the company's request under 49 CFR Part 512 to treat new product plans for Model Year 1989 and certain design specifications as confidential business information.

In its petition, Saab described a Saab 9000 antitheft system that is activated by locking the driver's door with the same key used for the ignition switch. The ignition key is designed so that the Saab 9000 door locks are difficult to pick. Once armed, the antitheft alarm system is triggered by vehicle motion-vibration or when an attempt is made to open any passenger door or the engine compartment hood. When triggered, the alarm activates a loud siren and flashes the front and rear parking lamps. The vehicle's engine starting system is also disabled. A special antitheft system for Saab 9000 radios is also provided.

Based on substantial evidence, the agency has determined that installing Saab's device in the Saab 9000 car line is likely to be as effective in reducing and deterring vehicle theft as compliance with the Part 541 marking requirements. This determination is based on the information Saab submitted with its petition and on other available information. The agency believes that the device will provide the types of performance listed in § 543.6(a)(3): promoting activation; attracting attention to unauthorized entries; preventing defeat or circumventing of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by section 605(b) of the statute and 49 CFR 543.6(a)(4), the agency also finds that Saab has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Saab provided on its device. This information included a description of reliability and functional test procedures prescribed by Saab's engineering department for the antitheft system and its components. Saab noted also that the function and design of its antitheft device are almost identical to those of other devices that the agency has considered likely to be at least as effective as complying with Part 541 would be.

The agency notes that the limited and apparently conflicting data on the effectiveness of the pre-standard parts-marking programs make it difficult at this early stage of the theft standard's implementation to compare the effectiveness of an antitheft device with the effectiveness of compliance with the theft prevention standard. The statute clearly requires such a comparison, which the agency has made on the basis of the limited data available.

NHTSA notes that if Saab wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this Part and equipped with the antitheft device on which the line's exemption was based. Further § 543.9(c)(2) provides for the submission of petitions "(t)o modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden which § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change in the components or design of an antitheft device. The significance of many such changes could be *de minimus.* Therefore, NHTSA suggests that if Saab contemplates making any changes the effects of which might be characterized as *de minimus,* then the company should consult the agency before preparing and submitting a petition to modify.

(15 U.S.C. 2025, delegation of authority at 49 CFR 1.50)

Issued on: May 26, 1988.

Diane K. Steed,

Administrator.

[FR Doc. 88-12227 Filed 5-31-88; 8:45 am]

BILLING CODE 4910-59-M

UNITED STATES INFORMATION AGENCY

Grants Program for Private Not-for-Profit Organizations; In Support of International Educational and Cultural Activities

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. The program is designed to increase mutual understanding between the people of the U.S. and other countries and to strengthen the ties which unite our societies. The information collection involved in this solicitation is covered by OMB Clearance Number 3116-0175, entitled "A Grants Program for Private, Non-Profit Organizations in Support of International Educational and Cultural Activities," announced in the **Federal Register** June 3, 1987.

Private sector organizations interested in working cooperatively with USIA on the following concept are encouraged to so indicate:

The American Political Process: International Trade: The Office of Private Sector Programs will assist in supporting a 14-day study tour to bring a delegation of trade officials and parliamentary leaders from several Western European countries to the United States. This program will highlight the nature of the American political process using trade-related issues as case studies. It will take place in late fall of 1988 or early spring of 1989 and include travel to Washington, DC and two other locations.

USIA is most interested in working with organizations that show promise for innovative and cost-effective programming; and with organizations that have potential for obtaining private-sector funding in addition to USIA support. Organizations must have the substantive expertise and logistical capability needed to successfully develop and conduct the above project and should also demonstrate a potential for designing programs which will have a lasting impact on their participants.

Interested organizations should submit a request for complete application materials marked "International Trade Project"—postmarked no later than fifteen days from the date of this notice—to the address listed below. The Office of Private Sector Programs will then forward a set of materials which contains proposal guidelines. This announcement is not a solicitation for proposals. It requests letters of interest from potential grantee institutions. Information on the proposal submission deadline will be forwarded with the application materials. Office of Private Sector Programs, Bureau of Educational and Cultural Affairs (Attn: Initiative Programs) United States Information Agency, 301 4th Street, SW., Washington, DC 20547.

Dated: May 18, 1988.

Robert Francis Smith,

Director, Office of Private Sector Programs.

[FR Doc. 88-12156 Filed 5-31-88; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 105
Wednesday, June 1, 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

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53 FR 15771.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., May 26, 1988.

CHANGE IN THE MEETING: The Financial rule enforcement review will be held on June 1, 1988 instead of May 26th as previsouly scheduled.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88-12349 Filed 5-27-88; 1:11 pm]

BILLING CODE 6350-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, June 3, 1988.

PLACE: 2033 K St., NW., Washington DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO E CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88-12350 Filed 5-27-88; 1:11 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, June 17, 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. 88-12351 Filed 5-27-88; 1:11 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, June 24, 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. 88-12352 Filed 5-27-88; 1:11 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, June 10, 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. 88-12358 Filed 5-27-88; 1:12 pm]

BILLING CODE 6351-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:03 p.m. on Tuesday, May 24, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Matters relating to the possible closing of certain insured banks.

Requests for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

Application of New Hampshire Savings Bank South, Nashua, New Hampshire, a state chartered stock savings bank in organization, for Federal deposit insurance, for consent to merge, under its charter and title, with First Federal Bank, FSB, Nashua, New Hampshire, and for consent to establish the four branches of First Federal Bank, FSB as branches of New Hampshire Savings Bank South.

Recommendations with respect to the initiation or conduct of administrative enforcement proceedings against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof.

Recommendation regarding the Corporation's corporate activities.

Matters relating to an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act.

Personnel matters.

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 authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c) (2), (c)(4), (c)(6), (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: May 27, 1988.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 88-12400 Filed 5-27-88; 3:12 pm]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: Thursday, June 2, 1988, 11:00 a.m.

PLACE: 1776 G Street NW., Board Room, Third Floor, Washington, DC 20006.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Alan Hausman, 1759 Business Center Drive, P.O. Box 4115, Reston, Virginia 22090, (703) 759-8405.

MATTERS TO BE CONSIDERED: Closed personnel matter.

Date sent to Federal Register: May 26, 1988.

Maud Mater,

Secretary.

[FR Doc. 88-12275 Filed 5-26-88; 4:54 pm]

BILLING CODE 6720-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 26, 1988

TIME AND DATE: 10:00 a.m., Wednesday, May 25, 1988.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

MATTERS TO BE CONSIDERED: In addition to the previously announced item, the Commission considered and acted upon the following:

2. Rivco Dredging Corporation, Docket No. KENT 88–23–R, etc. (Issues include consideration of a petition for discretionary review.)

It was determined by an unanimous vote of Commissioners that a closed meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 6532–5629/(202) 566–2673 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 88–12346 Filed 5–27–88; 11:25 am]

BILLING CODE 6735–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 26, 1988

TIME AND DATE: 10:00 a.m., Thursday, June 2, 1988.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. *Secretary of Labor v. Union Oil Company of California,* (Issues include whether the administrative law judge erred in concluding that a violation of 30 C.F.R. § 57.5001, involving overexposure to vanadium fume, was not significant and substantial.) WEST 86–1–M.

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

TIME AND DATE: Immediately following oral argument on June 2, 1988.

STATUS: Closed [Pursuant to 3 U.S.C. 552b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the above item.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629/(202) 566–2673 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 88–12347 Filed 5–27–88; 11:25 am]

BILLING CODE 6735–01–M

NUCLEAR REGULATORY COMMISSION

SUNSHINE FEDERAL REGISTER NOTICE

DATE: Weeks of May 30, June 6, 13, and 20, 1988.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of May 30

Tuesday, May 31

2:00 p.m.
Briefing on Human Factors Program and NRC Views of NAS Recommendations (Public Meeting)

Wednesday, June 1

2:00 p.m.
Briefing on Master Plan for Integrating All Severe Accident Issues (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, June 3

10:00 a.m.
DOE Briefing on LLW Program, West Valley Demonstration Project and Uranium Mill Tailings Remedial Action Project (Public Meeting)

Week of June 6—Tentative

Thursday, June 9

10:00 a.m.
Briefing on Status of Pilgrim (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of June 13—Tentative

Thursday, June 16

2:00 p.m.
Briefing on Advanced Light Water Reactors by EPRI (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of June 20—Tentative

Monday, June 20

1:00 p.m.
Discussion of Management—Organization and Internal Personnel Matters (Closed—Ex. 4)
2:30 p.m.
Briefing on Technical Specification Revisions (Public Meeting)

Tuesday, June 21

2:00 p.m.
Briefing on Options Paper on QA Requirements for Medical Applications of Radioactive Isotopes (Public Meeting)

Thursday, June 23

3:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 492–1661.

Andrew L. Bates,

Office of the Secretary.

May 26, 1988.

[FR Doc. 88–12398 Filed 5–27–88; 3:12 pm]

BILLING CODE 7590–01–M

federal register

Wednesday
June 1, 1988

Part II

Environmental Protection Agency

Asbestos-Containing Materials in Schools; EPA-Approved Courses Under the Asbestos Hazard Emergency Response Act (AHERA); Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-62063; FRL-3389-4]

Asbestos-Containing Materials in Schools; EPA-Approved Courses Under the Asbestos Hazard Emergency Response Act (AHERA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In section 206(c)(3) of Title II, the Administrator, in consultation with affected organizations, was directed to publish (and revise as necessary) a list of asbestos courses and tests in effect before the data of enactment of this title which qualify for equivalency treatment for interim accreditation purposes, and a list of asbestos courses and tests which the Administrator determines are consistent with the Model Plan and which will qualify a contractor for accreditation. This **Federal Register** notice includes the cumulative third list of course approvals. In addition, the list includes State accreditation programs that EPA has approved as meeting the requirements of the Model Plan.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW., Washington, DC 20460, Telephone: (202) 382-3790.

SUPPLEMENTARY INFORMATION: Section 206 of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2646, required EPA to develop a Model Contractor Accreditation Plan by April 20, 1987. The plan was issued on April 20, and was published in the **Federal Register** of April 30, 1987 (52 FR 15875), as Appendix C to Subpart E, 40 CFR Part 763.

To conduct asbestos-related work in schools, persons must receive accreditation in order to inspect school buildings for asbestos, develop management plans, and design or conduct response actions. Such persons can be accredited by States, which are required to adopt contractor accreditation plans at least as stringent as the EPA Model Plan, or by completing an EPA-approved training course and passing an examination for such course. The EPA Model Contractor Accrediatation Plan establishes those areas of knowledge of asbestos inspection, management plan development, and response action technology that persons seeking accreditation must demonstrate and States must include in their accreditation programs.

In the **Federal Register** of October 30, 1987 (52 FR 41826), EPA promulgated a final "Asbestos-Containing Materials In Schools" rule (40 CFR Part 763, Subpart E) which required all local education agencies (LEAs) to identify asbestos-containing materials (ACM) in their school buildings and take appropriate actions to control the release of asbestos fibers. The LEAs are also required to describe their activities in management plans, which must be made available to the public and submitted to State governors. Under Title II, LEAs are required to use specially trained persons to conduct inspections for asbestos, develop the management plans, and design or conduct major actions to control asbestos. The new rule took effect on December 14, 1987.

The length of initial training courses for accreditation under the Model Plan varies by discipline. Briefly, inspectors must take a 3-day training course; management planners must take the inspection course plus an additional 2 days devoted to management planning; and abatement project designers are required to have at least 3 days of training. In addition, asbestos abatement contractors and supervisors must take a 4-day training course, and asbestos abatement workers are required to take a 3-day training course. For all disciplines, persons seeking accreditation must also pass an examination and participate in annual re-training courses. A complete description of accreditation requirements can be found in the Model Accreditation Plan at 40 CFR Part 763, Subpart E, Appendix C.I.1. A through E.

In section 206(c)(3) of Title II, the Administrator, in consultation with affected organizations, was directed to publish (and revise as necessary) a list of asbestos courses and tests in effect before the date of enactment of this title which qualified for equivalency treatment for interim accreditation purposes, and a list of asbestos courses and tests which the Administrator determined were consistent with the Model Plan and which qualify a contractor for accreditation. The **Federal Register** notice of October 30, 1987, included the initial list of course approvals. In addition, the list included State accreditation programs that EPA has approved as meeting the requirements of the Model Plan. The second **Federal Register** notice of February 10, 1988 (53 FR 3982), was a cumulative listing of EPA course approvals and EPA-approved State accreditation programs.

Three types of EPA approvals are included in the **Federal Register** notices. Unit I discusses EPA approval of State accreditation programs. Unit II covers EPA approval of training courses. Unit III discusses EPA approval of training courses for interim accreditation. Lastly, Unit IV provides the list of State accreditation programs and training courses approved by EPA as of April 1988. Subsequent **Federal Register** notices will add other State programs and training courses to this third cumulative list.

I. EPA Approval of State Accreditation Programs

As discussed in the Model Plan, EPA is able to approve State accreditation programs that the Agency determines are at least as stringent as the Model Plan. In addition, the Agency is able to approve individual disciplines within a State's accreditation program. For example, a State that currently only has an accreditation requirement for inspectors can receive EPA approval for that discipline immediately rather than waiting to develop accreditation requirements for all disciplines in the Model Plan before seeking EPA approval. EPA can also approve State training programs that do not fully meet the Model Plan's requirements but do meet the requirements for interim accreditation.

As listed in Unit IV, Arkansas, Kansas, Massachusetts, New Jersey, and Rhode Island have received EPA full approval for two accreditation disciplines, abatement workers as well as contractors and supervisors, that are at least as stringent as the Model Plan. In addition, the State of Massachusetts has received full approval for their inspector/management planner and project designer disciplines. Any training courses in those disciplines approved by the aforementioned States are EPA-approved courses for purposes of accreditation. These training courses are EPA-approved courses for purposes of TSCA Title II in these States and in all States without an EPA-approved accreditation program for that discipline. Current lists of training courses approved by Massachusetts, New Jersey, and Rhode Island are listed under Unit IV. Arkansas and Kansas have no separate provider listings because neither State has independently approved any additional courses.

Each State accreditation program may have different requirements for State accreditation. For example, New Jersey requires participants of their courses to take the State exam. Therefore, those New Jersey approved course sponsors

who are contemplating presenting the training in another State must develop their own examination. They must also submit a detailed statement about the development of the course examination to the Regional Asbestos Coordinator in their region for EPA approval.

EPA has also approved a number of State programs for purposes of providing interim accreditation for persons who have met the training and exam requirements of these State programs. Persons meeting such requirements in these States have completed a training course and exam similar to the Model Plan's requirements before December 14, 1987. However, these individuals must become fully accredited within the time period specified in the Model Plan.

States that have approval for interim accreditation purposes for abatement contractors, supervisors and workers include Alaska, Arkansas, Kansas, and Washington. Michigan and Illinois have approval for interim accreditation purposes for abatement workers only. Recently, Arkansas and Kansas that have had programs suitable only for interim accreditation of abatement contractors, supervisors and workers have upgraded their accreditation programs to be at least as stringent as the Model Plan. Both States are now fully approved in these disciplines. Persons with interim accreditation in these States are eligible to conduct work during the time period specified in the Model Plan. However, these persons must eventually become fully accredited.

As stated above, the Alaska and Washington programs clearly meet EPA's interim accreditation requirements. Currently, EPA is conducting a review to determine whether one or both State programs are at least as stringent as the Model Plan. One or both programs may receive full approval after EPA's review is complete. All State programs nationwide that do not fully meet the Model Plan's requirements must be upgraded within the time period specified in TSCA Title II to be at least as stringent as the Model Plan.

II. EPA Approval of Training Courses

A cumulative list of training courses approved by EPA are listed under Unit IV. The examinations for these approved courses under Unit IV have also been approved by EPA. EPA has three categories of course approval: full, contingent, and approved for interim accreditation. Courses approved for interim accreditation will be discussed in Unit III.

Full approval means EPA has reviewed and found acceptable the course's written submission seeking EPA approval and has conducted an on-site audit and determined that the training course meets or exceeds the Model Plan's training requirements for the relevant discipline.

Contingent approval means the Agency has reviewed the course's written submission seeking EPA approval and found the material to be acceptable (i.e., the written course materials meet the Model Plan's training course requirements). However, EPA has not yet conducted an on-site audit.

Successful completion of either a fully approved course or a contingently approved course provides full accreditation for course attendees. If EPA subsequently audits a contingently approved course and withdraws approval due to deficiencies discovered during the audit, future course offerings would no longer have EPA approval. However, withdrawal of EPA approval would not effect the accreditation of persons who took previously offered training courses, including the course audited by EPA.

EPA-approved training courses listed under Unit IV are approved on a national basis. EPA has organized Unit IV by EPA Region to assist the public in locating those training courses that are offered nearby. Training courses are listed in the Region where the training course is headquartered, although several sponsors offer their courses in various locations in the United States.

EPA-approved State accreditation programs have the authority to have more stringent accreditation requirements than the Model Plan. As a result, some EPA-approved training courses listed under Unit IV may not meet the requirements of a particular State's accreditation program. Sponsors of training courses and persons who have received accreditation or are seeking accreditation should contact individual States to check on accreditation requirements.

A number of training courses offered by several universities before EPA issued the Model Plan equaled or exceeded the subsequently issued Model Plan's training course requirements. These courses are listed under Unit IV as being fully approved. It should be noted that persons who have successfully completed these courses are fully accredited; they are not limited only to being accredited on an interim basis.

III. EPA Approval of Training Courses for Interim Accreditation

TSCA Title II enables EPA to permit persons to be accredited on an interim basis if they have attended previous EPA-approved asbestos training and have passed (or pass) an asbestos exam. As a result, the Agency has approved training courses offered previously for purposes for accrediting persons on an interim basis. Only those persons who have taken training courses since January 1, 1985, will be considered under these interim accreditation provisions. In addition, EPA will not grant interim accreditation to any person who takes an equivalent training course after the date on which the asbestos-in-schools rule took effect (i.e., December 14, 1987). This accreditation is interim since the person shall be considered accredited for only 1 year after the date on which the State where the person is employed establishes an accreditation program at least as stringent as the EPA Model Plan. If the State does not adopt an accreditation program within the time period required by Title II, persons with interim accreditation must become fully accredited within 1 year after the date the State was required to have established a program.

For purposes of the Model Plan, an equivalent training course is one that is essentially similar in length and content to the curriculum found in the Model Plan. In addition, and equivalent examination must be essentially similar to the examination requirements found in the Model Plan.

Persons who have taken equivalent courses in their discipline for purposes of interim accreditation, and can produce evidence that they have successfully completed the course by passing an examination, are accredited on an interim basis under TSCA Title II. Evidence of successful completion of a course would include a certificate or photo identification card that showed the person completed the training course on a certain date and passed the examination.

For persons who took one of the EPA-approved courses for interim accreditation listed under Unit IV, but did not take the course's examination, these persons may become accredited on an interim basis by passing an examination at an EPA-funded training center. These EPA-funded training centers are listed under Unit IV. Before taking the exam, persons must provide evidence to the EPA-funded center that they previously had taken one of the training courses listed under Unit IV that is approved by EPA for interim accreditation.

New York City Department of Environmental Protection, Bureau of Air Resources has a training program for asbestos abatement workers and

contractors/supervisors that does meet the requirements for EPA approval of training courses for interim accreditation (See Unit IV, Region II). As a result, persons who have met the training and exam requirements of the New York City Abatement Worker (i.e., "handler") or Contractor/Supervisor program between April 1, 1987 and December 14, 1987, are accredited as listed under Unit IV on an Interim basis.

Courses approved by EPA as of April 1988 for interim accreditation are listed under Unit IV. Examinations offered by these courses also are approved for purposes of interim accrediation. EPA expects to approve additional courses for interim accrediation purposes, and will list these courses in subsequent **Federal Register** notices. Training course vendors that believe their courses offered since January 1, 1985, are suitable sources for interim accreditation should contact their EPA Regional Asbestos Coordinator.

IV. List of EPA-Approved State Accreditation Programs and Training Courses

Below is the third cumulative listing of EPA-approved State accreditation programs and training courses. As discussed above, periodic notifications of EPA approval of State accreditations programs and EPA approval of training courses will be published in subsequent **Federal Register** notices. The closing date for the acceptance of submissions to EPA for inclusion in this third notice was late April. Omission from this list does not imply disapproval by EPA, nor does the order of the courses reflect priority or quality. The format of the notification lists first the State accreditation programs approved by EPA, followed by EPA-approved training courses listed by Region. The name, address, phone number, and contact person is provided for each training provider followed by the courses and type of course approval (i.e., full, contingent, or for interim purposes). Unless otherwise specified by an alternative date, interim approvals are issued from January 1, 1985.

All five of the EPA-funded asbestos information centers and the three EPA-funded satellite training centers are using or will incorporate the EPA model inspector and management planner course recently developed with EPA funds. All of the EPA-funded training facilities have received approvals for inspection and management planning courses offered beginning in October 1987. Currently, almost all EPA-funded centers and all satellite centers have inspection and management planning courses that EPA has fully approved. The University of Kansas has received contingent appproval of its inspector and management planner courses. The five centers are: The Georgia Institute of Technology in Atlanta, Georgia; the University of Kansas in Overland Park, Kansas; Tufts University in Medford, Massachusetts; the University of Illinois at Chicago, and the University of California in Berkeley, California. The three satellite centers are: The University of Texas at Arlington; the Robert Wood Johnson Medical School in Piscataway, New Jersey; and Temple University in Philadelphia, Pennsylvania.

As of May 2, 1988, a total of 141 training providers are offering 240 EPA-approved training courses for accreditation under TSCA Title II. There are 83 asbestos abatement worker courses, 70 inspector/management planner courses, 5 inspector only courses, and 4 project designer courses. Nine States have either interimly or fully approved State accreditation programs.

The recently developed ERA-funded model course for inspectors and management planners, and an earlier course developed with EPA funding for asbestos abatement contractors and supervisors are available in final form for interested parties that plan to offer training courses. Interested parties should contact the following firm to receive copies of the training courses: ATLIS, Suite 600, 6011 Executive Blvd., Rockville, MD 20852, Phone number: (301) 468–1916.

A fee for each course will be charged to cover the reproduction costs for the written and visual aid materials. The model inspector/management planner course curriculum is now final. All who have paid for the draft student manual will automatically receive the instructor manual and the accompanying slides.

The following is the cumulative list of EPA-approved State accreditation programs and training courses:

Approved State Accreditation Programs

(1)(a) *State:* Alaska.
State Agency: Department of Labor
Address: P.O. Box 1149, Juneau, AK 99802
Contact: Richard Arab
Phone: (907) 465–4856

(b) *Approved Accreditation Program Discipline:*

Abatement Worker (interim).
Contractor/Supervisor (interim).

(c) *Effective date of regulation:* 10/1/85.

(2)(a) *State:* Arkansas.
State Agency: Arkansas Dept. of Pollution Control and Ecology
Address: 8001 National Dr., P.O. Box 9583, Little Rock, AR 72209
Contact: Wilson Tolefree
Phone: (501) 562–7444

(b) *Approved Accreditation Program Discipline:*

Abatement Worker (full and interim).
Contractor/Supervisor (full and interim).

(c) *Effective date of regulation:* full from 1/22/88 interim from 11/22/85.

(3)(a) *State:* Illinois.
State Agency: Illinois Dept. of Public Health
Address: 525 West Jefferson St., 3rd. Floor, Springfield, IL 62702
Contact: Don Anderson
Phone: (217) 782–5830

(b) *Approved Accreditation Program Discipline:*

Abatement Worker (interim).

(c) *Effective date of regulation:* 11/29/85.

(4)(a) *State:* Kansas.
State Agency: Kansas Dept. of Health and Environment, Environmental Toxicology Section
Address: Forbes Field Building 321, Topeka, KS 66620–7430
Contact: John C. Irwin
Phone: (913) 296–1500

(b) *Approved Accreditation Program Discipline:*

Abatement Worker (full and interim).[1]
Contractor/Supervisor (full and interim).

(c) *Effective date of regulation:* full from 12/16/87, interim from 11/6/86.

(5)(a) *State:* Massachusetts.
State Agency: Massachusetts Department of Labor & Industries; Division of Occupational Hygiene
Address: 1001 Watertown St., West Newton, MA 02165
Contact: Dick Levine
Phone: (617) 727–3567

(b) *Approved Accreditation Program Discipline:*

Abatement Worker (full).
Contractor/Supervisor (full).
Inspector (full).
Inspector/Management Planner (full).
Project Designer (full).

(c) *Effective date of regulation:* 10/30/87.

[1] Applies only to workers who have taken the Kansas Contractor/Supervisor course and passed the State's worker exam.

Massachusetts Department of Health, EPA-Approved Courses for Abatement Workers, Contractors/Supervisors, Inspector/Management Planners, and Project Designers

(i)(a) *Training Provider:* Abatement Technical Corp c/o ECO Systems Inc.
Address: 5 North Meadow Rd., Medfield, MA 02052
Contact: Joseph C. Mohen
Phone: (609) 795–7834
(b) *Approved Course:* Contractor/Supervisor.
(c) *Date of Certification:* 4/28/88.
(ii)(a) *Training Provider:* Asbestos Workers Union Local #6.
Address: 1725 Revere Beach Pwy., Everett, MA 02149
Contact: James P. McCourt
Phone: (617) 387–2679
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 4/25/88.
(iii)(a) *Training Provider:* Astoria Industries.
Address: 538 Stewart Ave., Brooklyn, NY 11222
Contact: Gary DiPaolo
Phone: (718) 387–0011
(b) *Approved Course:* Abatement Worker.
(c) *Date of Certification:* 4/8/88.
(iv)(a) *Training Provider:* BCM Engineering
Address: 1 Plymouth Meeting, Plymouth Meeting, PA 19462
Contact: Peter R. Charrington
Phone: (215) 825–3800
(b) *Approved Courses:* Inspector/Management Planner, Project Designer.
(c) *Date of Certification:* 4/28/88.
(v)(a) *Training Provider:* Con-Test, Inc.
Address: P.O. Box 591, East Longmeadow, MA 01028
Contact: Brenda Bolduc
Phone: (413) 525–1198
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker, Inspector/Management Planner.
(c) *Date of Certification:* 2/25/88.
(vi)(a) *Training Provider:* Dennison Environmental, Inc.
Address: 35 Industrial Highway, Woburn, MA 01880
Contact: Joan Ryan
Phone: (617) 932–9400
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 4/8/88.
(vii)(a) *Training Provider:* Environmental Training Services.
Address: 12 Wallnut Hill Pk., Woburn, MA 01801
Contact: Kenneth P. Martin, Jr.
Phone: (617) 389–0348
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 4/8/88.
(viii)(a) *Training Provider:* Howard School of Public Health.
Address: 677 Huntington Ave., Boston, MA 02115
Contact: Wiliam A. Burgass
Phone: (617) 732–1171
(b) *Approved Courses:* Contractor/Supervisor, Inspector/Management Planner.
(c) *Date of Certification:* 2/25/88.
(ix)(a) *Training Provider:* Hall-Kimbrell Environmental Services.
Address: 4340 West 15th St., Lawrence, KS 66046
Contact: Alice Hart
Phone: (800) 346–2860
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker, Inspector/Management Planner, Project Designer.
(c) *Date of Certification:* 4/25/88.
(x)(a) *Training Provider:* JF Walton & Company
Address: 201 Marginal St., Chelsea, MA 02150
Contact: Richard King
Phone: (617) 884–0350
(b) *Approved Course:* Abatement Worker.
(c) *Date of Certification:* 3/28/88.
(xi)(a) *Training Provider:* Kaselaan and D'Angelo Associates
Address: 515 Grove St., Haddon Heights, NJ 08035
Contact: Paul Heffernan
Phone: (212) 213–1188
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 2/25/88.
(xii)(a) *Training Provider:* N.A.A.C.O.
Address: 757 A Turnpike St., North Andover, MA 01845
Contact: Jerome W. Vitta
Phone: (617) 681–8711
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 3/18/88.
(xiii)(a) *Training Provider:* New England Laborers' Training Trust Fund.
Address: 37 East St., Hopkinton, MA 01748–2699
Contact: James Merloni, Jr.
Phone: (617) 435–6316
(b) *Approved Course:* Abatement Worker.
(c) *Date of Certification:* 2/25/88.
(xiv)(a) *Training Provider:* Tufts University Asbestos Information Center.
Address: 474 Boston Ave., Medford, MA 02155
Contact: Brenda Cole
Phone: (617) 381–3531
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker, Inspector/Management Planner.
(c) *Date of Certification:* 3/16/88.
(xv)(a) *Training Provider:* National Training Fund of Sheetmetal & Air Conditioning Industry/Workers Institute for Safety & Health.
Address: 1126 16th St., NW., Washington, DC 20036
Contact: Matthew Gillen
Phone: (202) 887–1980
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 4/28/88.
(xvi)(a) *Training Provider:* Institute for Environmental Education.
Address: 208 West Cummings Pk., Woburn, MA 01801
Contact: Mary Beth Carver
Phone: (617) 935–7370
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker, Inspector/Management Planner.
(c) *Date of Certification:* 4/28/88.
(6)(a) *State:* Michigan.
State Agency: State of Michigan Dept. of Public Health.
Address: 3500 North Logan, P.O. Box 30035, Lansing, MI 48909
Contact: Bill DeLiefde
Phone: (517) 335–8186
(b) *Approved Accreditation Program Discipline:*
Abatement Worker (interim).
(c) *Effective date of regulation:* 7/2/86.
(7)(a) *State:* New Jersey
State Agency, State of New Jersey Dept. of Health.
Address: CN 360, Trenton, NJ 08625–0360
Contact: James Brownlee
Phone: (609) 984–2193
(b) *Approved Accreditation Program Discipline:*
Abatement Worker (full).
Contractor/Supervisor (full).
(c) *Effective date of regulation:* 6/18/85.

New Jersey Department of Health, EPA-Approved Courses for Abatement Workers and Contractor/Supervisors

(i)(a) *Training Provider:* Alternative Ways.
Address: 100 Essex Ave., Bellmawr, NJ 08031
Contact: John Smith
Phone: (609) 933–3300
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 4/25/85.
(ii)(a) *Training Provider:* National Asbestos Training Institute.

Address: 1043 Broadway, West Long Branch, NJ 07764
Contact: Doris Adler
Phone: (201) 229–4387
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 5/3/85.
(iii)(a) *Training Provider:* Asbestos Training Academy.
Address: 218 Central Highway, Pennsauken, NJ 08109
Contact: Marianne Brady
Phone: (609) 488–9200
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 5/1/85.
(iv)(a) *Training Provider:* Kaselaan and D'Angelo Associates.
Address: 215 White Horse Pike, Hadden Heights, NJ 08035
Contact: Elizabeth Vanek
Phone: (609) 547–6500
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 5/8/85.
(v)(a) *Training Provider:* Princeton Testing Laboratory.
Address: Rt. 1 Princeton Serv. Ctr, Princeton, NJ 08540
Contact: Anne Coogan
Phone: (609) 452–9050
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 5/8/85.
(iv)(a) *Training Provider:* A and S Insulation Co., Inc.
Address: 2213 North Delsea Dr., Vineland, NJ 08360
Contact: William Clark
Phone: (609) 692–0883
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 5/20/85.
(vii)(a) *Training Provider:* Northeastern Analytical.
Address: 234 Route 70, Medford, NJ 08055
Contact: Skip Harris
Phone: (609) 654–1441
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 5/20/85.
(viii)(a) *Training Provider:* New York/New Jersey White Lung Assoc.
Address: 12 Warren St., New York, NY 10007
Contact: Beth Garner
Phone: (212) 619–2270
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 5/21/85.
(ix)(a) *Training Provider:* Hunter College of Health Sciences.
Address: 425 East 25th St., New York, NY 10010
Contact: Dr. Jack Caravanos
Phone: (212) 481–4352
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 5/23/85.
(x)(a) *Training Provider:* Biospherics, Inc.
Address: 12051 Indian Creek Ct., Beltsville, MD 20705
Contact: Marian Meiselman
Phone: (301) 369–3900
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 6/12/85.
(xi)(a) *Training Provider:* Building Laborers of N.J.—Training Center.
Address: P.O. Box 163, Jamesburg, NJ 08831
Contact: Emmanuel Riggi
Phone: (201) 521–0200
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 7/19/85.
(xii)(a) *Training Provider:* International Association of Heat and Frost Insulators and Asbestos Workers Local No. 14.
Address: 6513 Bustleton Ave., Philadelphia, PA 19149
Contact: James Aikens
Phone: (215) 533–0395
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 8/9/85.
(xiii)(a) *Training Provider:* IT Corporation.
Address: 336 West Anaheim St., Willmington, CA 90744
Contact: Dan Solliday
Phone: (213) 830–1720
(c) *Date of Certification:* 8/29/85.
(xiv)(a) *Training Provider:* International Association of Heat and Frost Insulators and Asbestos Workers Local No. 42.
Address: 1188 River Rd., New Castle, DE 19720
Contact: Robert Holden
Phone: (302) 328–4203
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 10/30/85.
(xv)(a) *Training Provider:* E.I. du Pont de Nemours & Co.
Address: Chamber Works, Deepwater, NJ 08023
Contact: Charles Battle
Phone: (609) 540–2434
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 5/1/87.
(xvi)(a) *Training Provider:* International Association of Heat and Frost Insulators and Asbestos Workers Local No. 89.
Address: 2733 Nottingham Way, Trenton, NJ 08619
Contact: Charles DaBronzo
Phone: (609) 587–0092
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 5/13/86.
(xvii)(a) *Training Provider:* Mid-Atlantic Asbestos Training Center UMDNJ.
Address: 675 Hoes Lane, Piscataway, NJ 08854
Contact: Lee Laustsen
Phone: (201) 463–4500
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 7/1/86.
(xviii)(a) *Training Provider:* National Asbestos Council.
Address: 2786 North Decatur Rd., Decatur, GA 30033
Contact: Tom Laubenthal
Phone: (404) 292–0629
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 1/13/87.
(xix)(a) *Training Provider:* Asbestos Training Institute—HRF, Inc.
Address: 247 Hayler St., South Hackensack, NJ 07606
Contact: Robert Tetzlaff
Phone: (201) 489–3200
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 3/4/87.
(xx)(a) *Training Provider:* LOMA Environmental, Inc.
Address: 717 Fellowship Rd., Mount Laurel, NJ 08054
Contact: Laurence Ferrier
Phone: (609) 778–5757
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 4/13/87.
(xxi)(a) *Training Provider:* Asbestos Worker Local No. 32.
Address: 870 Broadway, Newark, NJ 07104
Contact: Paul Ielmini
Phone: (201) 485–3626
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 5/8/87.
(xxii)(a) *Training Provider:* Advanced Design and Technology Corp.
Address: 1300 Macdade Blvd., Folsom, PA 19033
Contact: Greg Santo
Phone: (215) 583–0660
(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 6/27/87.
(xxiii)(a) *Training Provider:* Association of Wall and Ceiling Industries.
Address: 25 K St. NE, Washington, DC 20002

Contact: Carol Paquin
Phone: (202) 783–2924

(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 6/17/87.
(xxiv)(a) *Training Provider:* BCM Eastern, Inc.
Address: One Plymouth Meeting Mall, Plymouth Meeting, PA 19462
Contact: Robert Ferguson
Phone: (215) 825–3800

(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 6/7/87.
(xxv)(a) *Training Provider:* Certified Abatement Technologies, Inc.
Address: 47 Midland Ave., Elmwood Park, NJ 07407
Contact: Daniel Curtin
Phone: (201) 796–9589

(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 6/3/87.
(8)(a) *State:* Rhode Island.
State Agency: State of Rhode Island & Providence Plantations, Department of Health
Address: 206 Cannon Bldg. 75 Davis St. Providence, RI 02908
Contact: James C. Hickey
Phone: (401) 277–3601
(b) *Approved Accreditation Program Discipline:*
Abatement Worker (full).
Contractor/Supervisor (full).
(c) *Effective date of regulation:* 2/4/86.

Rhode Island Department of Health, EPA-Approved Courses for Abatement Workers and Contractors/Supervisors

(i)(a) *Training Provider:* Tufts University Asbestos Information Center.
Address: 474 Boston Ave., Medford, MA 02155
Contact: Brenda Cole
Phone: (617) 381–3531

(b) *Approved Course:* Abatement Worker.
(c) *Date of Certification:* 7/1/86.
(iii)(a) *Training Provider:* New England Laborers' Training Trust Fund.
Address: 37 East St., Hopkinton, MA 07148
Contact: James Merloni
Phone: (617) 435–6316

(b) *Approved Course:* Abatement Worker.
(c) *Date of Certification:* 7/1/86.
(ii)(a) *Training Provider:* Georgia Tech Research Institute Environmental Health & Safety Division.
Address: Room 129 O'Keefe Building, Atlanta, GA 30332
Contact: Mark Demyanek
Phone: (404) 894–3806

(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 7/22/86.
(iv)(a) *Training Provider:* Con-Test, Inc.
Address: P.O. Box 591, East Longmeadow, MA 01028
Contact: Brenda Bolduc
Phone: (413) 525–1198

(b) *Approved Course:* Abatement Worker.
(c) *Date of Certification:* 3/1/86.
(v)(a) *Training Provider:* National Asbestos Council.
Address: 2786 North Decataur Rd., Decatur, GA 30033
Contact: Tom Laubenthal
Phone: (404) 292–0629

(b) *Approved Course:* Abatement Worker.
(c) *Date of Certification:* 9/5/86.
(vi)(a) *Training Provider:* National Surface Cleaning, Inc.
Address: 49 Danton Dr., Methuen, MA 01844
Contact: Anthony Mesiti
Phone: (617) 686–6417

(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 10/3/86.
(vii)(a) *Training Provider:* Heat Frost and Asbestos Union Local #6.
Address: 1725 Revere Beach Pwy., Everett, MA 02149
Contact: Bud McCort
Phone: (617) 387–0809

(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 12/8/86.
(viii)(a) *Training Provider:* Analytical Testing Services.
Address: 180 Weeden St., Pawtucket, RI 02860
Contact: Robert Weisberg/Marie Stoeckel
Phone: (401) 723–7973

(b) *Approved Courses:* Contractor/Supervisor.
(c) *Date of Certification:* 12/10/86.
(ix)(a) *Training Provider:* Covino Environmental Consultants, Inc.
Address: 12 Walnut Hill Pk., Woburn, MA 01801
Contact: Sam Covino
Phone: (617) 933–2555

(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 1/15/87.
(x)(a) *Training Provider:* Community College of Rhode Island.
Address: 1762 Louisquisset Pk., Lincoln, RI 028865
Contact: Americo Ottavino
Phone: (401) 333–7060

(b) *Approved Courses:* Abatement Worker.
(c) *Date of Certification:* 11/13/87.
(xi)(a) *Training Provider:* Institute for Environmental Education.
Address: 208 West Cummings Pk., Woburn, MA 01801
Contact: Marybeth Carver
Phone: (617) 935–7370

(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 9/9/87.
(xii)(a) *Training Provider:* National Training Fund of Sheetmetal & Air Conditioning Industry/Workers' Institute For Safety & Health.
Address: 1126 Sixteenth Street NW, Washington, DC 20036
Contact: Mat Gillan
Phone: (202) 887–1980

(b) *Approved Courses:* Abatement Worker.
(c) *Date of Certification:* 2/2/88.
(xiii)(a) *Training Provider:* NAACO, Inc.
Address: 757 A Turnpike St., North Andover, MA 01845
Contact: Martin Levitt
Phone: (617) 681–8711

(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 4/28/88.
(xiv)(a) *Training Provider:* Quality Control Service, Inc.
Address: 1 Andrew Circle, North Andover, MA 01845
Contact: Ajay Pathak
Phone: (508) 475–0623

(b) *Approved Courses:* Contractor/Supervisor, Abatement Worker.
(c) *Date of Certification:* 4/27/88.
(9)(a) *State:* Washington.
State Agency: State of Washington Dept. of Labor and Industries, Division of Industrial Safety and Health
Address: 805 Plum SE, Olympia, WA 98504
Contact: Steve Cant
Phone: (206) 753–6497

(b) *Approved Accreditation Program Discipline:*
Abatement Worker (interim).
Contractor/Supervisor (interim).
(c) *Effective date of regulation:* 11/21/85.

EPA-Approved Training Course

Region I—Boston, MA

Regional Asbestos Coordinator: Alison Roberts, EPA, Region I, Air and Management Division (APT–231), JFK Federal Building, Boston, MA 02203. (617) 565–3273 (FTS) 835–3273.

List of Approved Courses: The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for

Region I training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* Abatement Technology Corporation

Address: 1 Boston Pl., Suite 1025, Boston, MA 02108

Contact: Scott Keyes

Phone: (617) 723–3100

(b) *Approved Course:* Contractor/Supervisor (contingent).

(2)(a) *Training Provider:* Con-Test.

Address: P.O. Box 591, East Longmeadow, MA 01028

Contact: Brenda Bolduc

Phone: (413) 525–1198

(b) *Approved Courses:* Abatement Worker (contingent). Abatement Worker Refresher Course (contingent). Contractor/Supervisor (contingent). Contractor/Supervisor Refresher Course (contingent). Inspector/Management Planner (contingent). Inspector/Management Planner Refresher Course (contingent).

(3)(a) *Training Provider:* Environmental Training Services.

Address: 12 Walnut Hill Pk., Woburn, MA 01801

Contact: Kenneth P. Martin

Phone: (617) 398–0348.

(b) *Approved Course:* Abatement Worker (contingent).

(4)(a) *Training Provider:* Hygientics Inc.

Address: 150 Causeway St., Boston, MA 02114

Contact: John W. Cowdery

Phone: (617) 723–4664

(b) *Approved Course:* Inspector (contingent).

(5)(a) *Training Provider:* Institute for Environmental Education.

Address: 208 West Commings Pk., Woburn, MA 01801

Contact: Thomas Kirlin

Phone: (617) 935–7370

(b) *Approved Courses:* Abatement Worker (contingent). Contractor/Supervisor (full from 9/18/87). Inspector/Management Planner (contingent).

(6)(a) *Training Provider:* Maine Labor Group on Health, Inc.

Address: P.O. Box 5, Augusta, ME 04330

Contact: Dianna White

Phone: (207) 289–2770

(b) *Approved Courses:* Abatement Worker (contingent). Contractor/Supervisor (contingent).

(7)(a) *Training Provider:* New England Laborers' Training Trust Fund.

Address: 37 East St., Hopkinton, MA 01748

Contact: Jim Merloni, Jr.

Phone: (617) 435–6316

(b) Approved Course: Abatement Worker (contingent).

(8)(a) *Training Provider:* Tufts University Asbestos Information Center.

Address: 474 Boston Ave., Medford, MA 02155

Contact: Brenda Cole

Phone: (617) 381–3531

(b) *Approved Courses:* Contractor/Supervisor (interim from 9/1/85 to 5/31/87). Contractor/Supervisor (full from 6/1/87). Inspector/Management Planner (full from 11/16/87).

Region II—Edison, NJ

Regional Asbestos Coordinator: Arnold Freiberger, EPA, Region II, Woodbridge Ave., Raritan Depot, Bldg. 10, Edison, NJ 08837. (201) 321–6668, (FTS) 340–6671.

List of Approved Courses: The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region II training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* Abatement Safety Training Institute (ASTI).

Address: 323 West 39th St., New York, NY 10018

Contact: Jay Sall

Phone: (212) 629–8400

(b) *Approved Course:* Inspector/Management Planner (full from 3/21/88).

(2)(a) *Training Provider:* Alternative Ways, Inc.

Address: 100 Essex Ave., Bellmawr, NJ 08031

Contact: Robert C. Hasiuk

Phone: (609) 933–3300

(b) *Approved Course:* Inspector/Management Planner (contingent).

(3)(a) *Training Provider:* Asteco, Inc.

Address: P.O. Box 2204, Niagara University, Niagara, NY 14109

Contact: John Larson

Phone: (716) 297–5992

(b) *Approved Course:* Abatement Worker (full from 4/13/88).

(4)(a) *Training Provider:* Astoria Industries Inc.

Address: 538 Stewart Ave., Brooklyn, NY 11222

Contact: John Gajeski

Phone: (718) 387–0011

(b) *Approved Course:* Abatement Worker (contingent).

(5)(a) *Training Provider:* Hygeia of New York Inc.

Address: P.O. Box 206, 100 Oriskany Blvd, Whitesboro, NY 13492

Contact: Richard A. Gigliotti

Phone: (315) 736–8980

(b) *Approved Course:* Abatement Worker (full from 4/13/88).

(6)(a) *Training Provider:* Kaselaan and D'Angelo Associates, Inc.

Address: 515 Grove St., Grove Plaza, Haddon Heights, NJ 08035

Contact: Lance Fredericks

Phone: (212) 213–1188

(b) *Approved Course:* Inspector/Management Planner (full from 3/7/88).

(7)(a) *Training Provider:* Laborer's Local No. 91 Educational and Training Fund.

Address: 2556 Seneca Ave., Niagara Falls, NY 14305

Contact: Joel Cicero

Phone: (716) 297–9253

(b) *Approved Course:* Abatement Worker (full from 7/27/87).

(8)(a) *Training Provider:* Mid-Atlantic Asbestos Training Center, UMDNJ Robert Wood Johnson Medical School.

Address: 675 Hoes Lane, Piscataway, NJ 08854–5635

Contact: Lee Laustsen

Phone: (201) 463–4500

(b) *Approved Courses:* Abatement worker (full from 7/28/86). Contractor/Supervisor (full from 7/28/86). Inspector/Management Planner (full from 11/16/87).

(9)(a) *Training Provider:* National Institution Abatement Science & Technology (NIAST).

Address: 114 West State St., P.O. Box 1780, Trenton, NJ 08607–1780

Contact: Glenn W. Phillips

Phone: (800) 422–2836

(b) *Approved Course:* Inspector/Management Planner (contingent).

(10)(a) *Training Provider:* Niagara County Community College.

Address: 3111 Saunders Settlement Rd., Sanborn, NY 14132

Contact: Eugene Zinni

Phone: (716) 731–3271

(b) *Approved Courses:* Abatement Worker (full from 1/25/88). Contractor/Supervisor (full from 2/19/88).

(11)(a) *Training Provider:* Princeton Testing Laboratory, Inc.

Address: 3490 US Route 1, Princeton Service Center, Princeton, NJ 08543
Contact: Anne Coogan
Phone: (609) 452–9050

(b) *Approved Course:*
Inspector/Management Planner (contingent).

(12)(a) *Training Provider:* Safe Air Environmental Group, Inc.

Address: P.O. Box 457, Depew, NY 14043
Contact: Reza Farrokh
Phone: (800) 634–8234

(b) *Approved Courses:*
Abatement Worker (full from 4/4/88).
Contractor/Supervisor (full from 4/4/88).

(13)(a) *Training Provider:* Tri-Cities Laborers Training Program

Address: 5 Lombard St., Schenectady, NY 12304
Contact: Joseph Zappone
Phone: (518) 370–3463

(b) *Approved Course:*
Abatement Worker (full from 3/21/88).

(14)(a) *Training Provider:* Western New York Council on Occupational Safety & Health (WNYCOSH).

Address: 450 Grider St., Buffalo, NY 14215
Contact: Jeanne Reilly
Phone: (716) 897–2110

(b) *Approved Course:*
Abatement Worker (full from 1/24/88).

Region III—Philadelphia, PA

Regional Asbestos Coordinator: Pauline Levin, EPA, Region III (3HW–40), 841 Chestnut Bldg., Philadelphia, PA 19107. (215) 597–9859, (FTS) 597–9859.

List of Approved Courses: The following training courses have been approved by EPA.The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region III training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* Aerosol Monitoring & Analysis, Inc.

Address: P.O. Box 687, Hunt Valley, MD 21030
Contact: D.R. Twilley
Phone: (301) 785–5615

(b) *Approved Courses:*
Abatement Worker (full from 7/14/87).
Contractor/Supervisor (full from 7/14/87).
Inspector/Management Planner (full from 3/31/88).

(2)(a) *Training Provider:* Alice Hamilton Center for Occupational Health, Committees on Occupational Safety and Health.

Address: 801 Pennsylvania Avenue SE., Washington, DC 20003–2155
Contact: Brian Christopher
Phone: (202) 543–0005

(b) *Approved Courses:*
Abatement Worker (full from 1/16/88).
Contractor/Supervisor (full from 1/16/88).
Inspector/Management Planner (contingent).

(3)(a) *Training Provider:* Asbestos Abatement Council of the Association of Wall & Ceiling Industries.

Address: 25 K Street NE., Suite 300, Washington, DC 20002
Contact: Carol Paquin
Phone: (202) 783–2924

(b) *Approved Courses:*
Abatement Worker (full from 5/19/87).
Contractor/Supervisor (full from 5/19/87).

(4)(a) *Training Provider:* Biospherics, Inc.

Address: 12051 Indian Creek Ct., Beltsville, MD 20705
Contact: Marian F. Meiselman
Phone: (301) 369–3900

(b) *Approved Courses:*
Abatement Worker (full from 10/1/87).
Contractor/Supervisor (full from 10/1/87).

(5)(a) *Training Provider:* Delaware Technical & Community Colleges.

Address: P.O. Box 897, Dover, DE 19903
Contact: David Stanley
Phone: (302) 736–4621

(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (contingent).

(6)(a) *Training Provider:* Drexel University, Office of Continuing Professional Education.

Address: 32nd & Chestnut Sts., Philadelphia, PA 19104
Contact: Robert Ross
Phone: (215) 895–2156

(b) *Approved Courses:*
Abatement Worker (full from 6/9/86).
Contractor/Supervisor (full from 6/9/86).
Inspector/Management Planner (contingent).

(7)(a) *Training Provider:* Hazard Abatement Training Center.

Address: 101 East Lancaster Ave., Wayne, PA 19087
Contact: Robert Mautner
Phone: (215) 971–0830

(b) *Approved Course:*
Inspector/Management Planner (contingent).

(8)(a) *Training Provider:* IND TRA CO., A Subsidiary of WACO, Inc.

Address: 5450 Lewis Rd., P.O. Box 836, Sandston, VA 23150
Contact: William Belanich
Phone: (804) 222–8440

(b) *Approved Courses:*
Abatement Worker (full from 9/15/87).
Contractor/Supervisor (full from 9/15/87).

(9)(a) *Training Provider:* Jenkins Professionals, Inc.

Address: 5022 Campbell Blvd., Suite F, Baltimore, MD 21236
Contact: Larry Jenkins
Phone: (301) 529–3553

(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (contingent).

(10)(a) *Training Provider:* Laborers' District Council, Education Training Fund of Philadelphia & Vicinity.

Address: 500 Lancaster Ave., Exton, PA 19341
Contact: Jerry Roseman
Phone: (215) 836–1175

(b) *Approved Courses:*
Abatement Worker (interim from 11/1/87 to 12/14/87).
Abatement Worker (contingent).

(11)(a) *Training Provider:* Medical College of Virginia, Virginia Commonwealth University, Dept. of Preventive Medicine.

Address: P.O. Box 212, Richmond, VA 23298
Contact: Leonard Vance, Phd
Phone: (804) 786–9785

(b) *Approved Courses:*
Contractor/Supervisor (full from 11/2/87).
Inspector/Management Planner (full from 2/29/88).

(12)(a) *Training Provider:* NOVATEC, Inc.

Address: 505 Drury Lane, Baltimore, MD 21229
Contact: Robert Olcerst
Phone: (301) 566–0859

(b) *Approved Course:*
Abatement Worker (contingent).

(13)(a) *Training Provider:* National Training Fund of Sheetmetal & Air Conditioning Industry/Workers' Institute for Safety & Health.

Address: 1126 Sixteenth St. NW., Washington, DC 20036
Contact: Scott Schneider
Phone: (202) 887–1980

(b) *Approved Courses:*
Abatement Worker (interim from 11/1/86 to 8/1/87).
Abatement Worker (full from 9/18/87).
Contractor/Supervisor (interim from 11/1/86 to 8/1/87).

Contractor/Supervisor (full from 9/18/87).

(14)(a) *Training Provider:* Oneil M. Banks, Inc.

Address: 336 South Main St., Bel Air, MD 21014

Contact: Oneil M. Banks

Phone: (301) 879–4676

(b) *Approved Courses:*

Abatement Worker (contingent).

Contractor/Supervisor (contingent).

Inspector (contingent).

(15)(a) *Training Provider:* Paskal Environmental Services.

Address: 1400 South Joyce St., Suite C 1701, Arlington, VA 22202

Contact: Steven Paskal

Phone: (703) 920–6653

(b) *Approved Course:*

Abatement Worker (contingent).

(16)(a) *Training Provider:* Safety Management Institute.

Address: P.O. Box 2267, Altoona, PA 16603

Contact: Christopher Tate

Phone: (814) 946–8778

(b) *Approved Courses:*

Abatement Worker (contingent).

Contractor/Supervisor (contingent).

Inspector/Management Planner (contingent).

(17)(a) *Training Provider:* Temple University College of Engineering.

Address: 12th & Norris Sts., Philadelphia, PA 19122

Contact: Lester Levin

Phone: (215) 787–6479

(b) *Approved Courses:*

Abatement Worker (full from 9/28/87).

Contractor/Supervisor (full from 9/28/87).

Inspector/Management Planner (full from 10/13/87).

(18)(a) *Training Provider:* University of Pittsburgh Graduate School of Public Health.

Address: Department of Industrial Environmental Health Services, Pittsburgh, PA 15261

Contact: Dietrich A. Weyel

Phone: (412) 624–3850

(b) *Approved Courses:*

Abatement Worker (contingent).

Contractor/Supervisor (contingent).

(19)(a) *Training Provider:* White Lung Association.

Address: 1114 Cathedral St., Baltimore, MD 21201

Contact: James Fite

Phone: (301) 727–6029

(b) *Approved Courses:*

Abatement Worker (contingent).

Contractor/Supervisor (contingent).

Inspector/Management Planner (full from 2/15/88).

(20)(a) *Training Provider:* William L. James Enterprises, Inc.

Address: 710 Capouse Ave., Scranton, PA 18509

Contact: William L. James

Phone: (717) 346–2637

(b) *Approved Courses:*

Abatement Worker (contingent).

Contractor/Supervisor (contingent).

Region IV—Atlanta, GA

Regional Asbestos Coordinator: Jim Littell, EPA Region IV, 345 Courtland St. NE, Atlanta, GA 30365. (404) 347–3864, (FTS) 257–3864.

List of Approved Courses: The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region IV training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* A.T.C., Inc.

Address: 1635 Pumphrey Ave., Auburn, AL 36830–4303

Contact: David L. Elam, Jr.

Phone: (205) 826–8232

(b) *Approved Course:*

Inspector (contingent).

(2)(a) *Training Provider:* AHP Research, Inc.

Address: 1501 Johnsons Ferry Rd., Suite 230, P.O. Box 71926, Marietta, GA 30007

Contact: Dwight Brown

Phone: (404) 565–0061

(b) *Approved Courses:*

Inspector/Management Planner (interim from 5/28/86 to 12/13/87).

Inspector/Management Planner (full from 12/14/87).

(3)(a) *Training Provider:* ATI Environmental Services.

Address: P.O. Box 3044, Louisville, KY 40201

Contact: Tim Ellis

Phone: (502) 589–5308

(b) *Approved Courses:*

Abatement Worker (full from 1/12/88).

Contractor/Supervisor (full from 1/12/88).

(4)(a) *Training Provider:* Asbestos Consultants, Inc.

Address: P.O. Box 9054, Greensboro, NC 27408

Contact: Thomas Petty

Phone: (919) 275–3907

(b) *Approved Course:*

Inspector/Management Planner (contingent).

(5)(a) *Training Provider:* BCM Engineers, Inc.

Address: 108 St. Anthony St., P.O. Box 1784, Mobile, AL 36633

Contact: Gail Conner

Phone: (205) 433–3981

(b) *Approved Courses:*

Inspector/Management Planner (full from 11/11/87).

Project Designer (full from 12/8/87).

(6)(a) *Training Provider:* DPC General Contractors.

Address: 250 Arizona Ave., NE., Building A, Atlanta, GA 30307

Contact: Glen Kahler

Phone: (404) 373–0561

(b) *Approved Course:*

Abatement Worker (contingent).

(7)(a) *Training Provider:* Georgia Tech. Research Institute, Environmental Health & Safety Division.

Address: Room 029, O'Keefe Building, Atlanta, GA 30332

Contact: Mark Demyanek

Phone: (404) 894–3806

(b) *Approved Courses:*

Contractor/Supervisor (interim from 6/1/85 to 5/10/87).

Contractor/Supervisor (full from 5/11/87).

Contractor/Supervisor Refresher Course (contingent).

Inspector/Management Planner (full from 10/1/87).

(8)(a) *Training Provider:* Howard L. Henson Training Institute.

Address: 3592 Flat Shoals Rd., Decatur, GA 30034

Contact: Stephen Henson

Phone: (404) 243–5107

(b) *Approved Course:*

Abatement Worker (full from 2/16/88).

(9)(a) *Training Provider:* Laborers' District Council of Southeast Florida.

Address: 799 Northwest 62nd St., Miami, FL 33510

Contact: Albert Houston

Phone: (305) 754–2659

(b) *Approved Course:*

Abatement Worker (full from 3/15/88).

(10)(a) *Training Provider:* National Asbestos Council (NAC) Training Department.

Address: 2786 North Decatur Rd., Decatur, GA 30033

Contact: Tom Laubenthal

Phone: (404) 292–0629

(b) *Approved Courses:*

Abatement Worker (interim from 7/1/86 to 6/1/87).

Abatement Worker (full from 7/1/87).

(11)(a) *Training Provider:* South Carolina Research and Training Center.

Address: 300 Gervais St., Annex III, Columbia, SC 29201

Contact: Jan Temple

Phone: (803) 737–2060

(b) *Approved Courses:*
Contractor/Supervisor (full from 3/8/88).
Inspector/Management Planner (full from 3/1/88).
(12)(a) *Training Provider:* The Environmental Institute.
Address: COBB Corporate Center/300, 350 Franklin Rd., Marietta, GA 30067
Contact: Eva Clay
Phone: (404) 425–2000
(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (full from 2/1/88).
Inspector/Management Planner (full from 1/25/88).
Project Designer (full from 2/9/88).
(13)(a) *Training Provider:* University of Alabama, College of Continuing Studies, Division of Environmental & Industrial Programs.
Address: P.O. Box 2967, Tuscaloosa, AL 35486–2967
Contact: William Weems
Phone: (205) 348–3033
(b) *Approved Course:*
Contractor/Supervisor (full from 12/14/87).
(14)(a) *Training Provider:* University of Alabama—Birmingham Deep South Center.
Address: Birmingham, AL 35294
Contact: Elizabeth Lynch
Phone: (205) 934–7032
(b) *Approved Course:*
Inspector/Management Planner (full from 3/21/88).
(15)(a) *Training Provider:* University of Florida, TREEO Center.
Address: 3900 South West 63rd Blvd., Gainesville, FL 32608
Contact: Sandra Scaggs
Phone: (904) 392–9570
(b) *Approved Courses:*
Contractor/Supervisor (interim from 2/9/87 to 4/30/87).
Contractor/Supervisor (full from 5/1/87).
Inspector/Management Planner (interim from 1/27/87 to 12/14/87).
Inspector/Management Planner (full from 2/15/88).
(16)(a) *Training Provider:* University of Kentucky, College of Engineering Continuing Education.
Address: 305 Slone Bldg., Lexington, KY 40506–0053
Contact: A.B. Broderson
Phone: (606) 257–4300
(b) *Approved Course:*
Inspector/Management Planner (full from 2/15/88).
(17)(a) *Training Provider:* University of North Carolina Chapel Hill, Occupational Safety & Health, Educational Resource Center.
Address: 109 Conner Dr., Suite 1101, Chapel Hill, NC 27514
Contact: Ted Williams
Phone: (919) 962–2101
(b) *Approved Course:*
Inspector/Management Planner (full from 11/9/87).
(18)(a) *Training Provider:* Williams and Associates, Inc., Environmental Training Center.
Address: 460 Tennessee St., Memphis, TN 38103
Contact: Ruth Williams
Phone: (901) 521–9030
(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (contingent).

Region V—Chicago, IL

Regional Asbestos Coordinator: Anthony Restaino, EPA Region V, 536 S. Clark St., Chicago, IL 60604. (312) 886–6879, (FTS) 886–6879.
List of Approved Courses: The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region V training courses and contact points for each, are as follows:
(1)(a) *Training Provider:* Abatement Training Institute, Inc.
Address: P.O. Box 26835, Columbus, OH 43226–0835
Contact: Steven Ritchie
Phone: (614) 267–0908
(b) *Approved Course:*
Abatement Worker (contingent).
(2)(a) *Training Provider:* Asbestos Management, Inc. (AMI).
Address: 36700 South Huron, Suite 104, New Boston, MI 48164
Contact: Kary S. Amin
Phone: (313) 961–6135
(b) *Approved Courses:*
Contractor/Supervisor (contingent).
Inspector/Management Planner (full from 2/2/88).
(3)(a) *Training Provider:* Asbestos Training & Employment, Inc. (ATEI).
Address: 809 East 11th St., Michigan City, IN 46360
Contact: Bruce H. Connell
Phone: (219) 874–7348
(b) *Approved Course:*
Abatement Worker (contingent).
(4)(a) *Training Provider:* BDN Industrial Hygiene Consultants.
Address: 8105 Valleywood Lane, Portage, MI 49002
Contact: Keith Nichols
Phone: (616) 329–1237
(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (contingent).
Inspector/Management Planner (full from 2/15/88).
(5)(a) *Training Provider:* Clayton Environmental Consultants, Inc.
Address: 22345 Roethel Dr., Novi, MI 48050
Contact: Michael Coffman
Phone: (313) 344–1770
(b) *Approved Course:*
Inspector/Management Planner (full from 2/26/88).
(6)(a) *Training Provider:* Columbus Paraprofessional Institute Battelle Columbus Division.
Address: 505 King Ave., Columbus, OH 43201–2693
Contact: John Simpkins
Phone: (614) 424–6424
(b) *Approved Course:*
Inspector/Management Planner (contingent).
(7)(a) *Training Provider:* Daniel J. Hartwig Associates, Inc.
Address: P.O. Box 31, Oregon, WI 53573–0031
Contact: Alice J. Seeliger
Phone: (608) 835–5781
(b) *Approved Course:*
Inspector/Management Planner (contingent).
(8)(a) *Training Provider:* DeLisle Consulting & Laboratories, Inc.
Address: 2401 East Milham Ave., Kalamazoo, MI 49002
Contact: Mark DeLisle
Phone: (616) 343–9698
(b) *Approved Courses:*
Contractor/Supervisor (full from 10/20/87).
Inspector/Management Planner (full from 12/22/87).
(9)(a) *Training Provider:* Environmental Professionals, Inc.
Address: 1405 Newton St., Tallmadge, OH 44278
Contact: Timothy E. Walsh
Phone: (216) 633–4435
(b) *Approved Course:*
Contractor/Supervisor (contingent).
(10)(a) *Training Provider:* Foley Occupational Health Consulting.
Address: 4060 Echo Cove, Manitou Beach, MI 49253
Contact: E.D. Foley, Jr.
Phone: (517) 547–7399
(b) *Approved Course:*
Contractor/Supervisor (contingent).
(11)(a) *Training Provider:* Heat and Frost Insulators, Local 17 Apprentice Training Center.
Address: 3850 South Racine Ave., Chicago, IL 60609
Contact: John P. Shine
Phone: (312) 247–1007

(b) *Approved Courses:*
Abatement Worker (full from 11/8/87).
Contractor/Supervisor (contingent).
(12)(a) *Training Provider:* I.P.C. Chicago.
Address: 4309 West Henderson, Chicago, IL 60641
Contact: Robert G. Cooley
Phone: (312) 975–3495
(b) *Approved Course:*
Abatement Worker (contingent).
(13)(a) *Training Provider:* Illinois Laborers' & Contractors' Training Program, Training Trust.
Address: Rural Route 3, Mount Sterling, IL 62353
Contact: Tony Romolo
Phone: (217) 773–2741
(b) *Approved Courses:*
Abatement Worker (full from 2/1/88).
Contractor/Supervisor (full from 3/14/88).
(14)(a) *Training Provider:* Indiana Laborers' Training Trust Fund.
Address: P.O. Box 758, Bedford, IN 47421
Contact: Richard Fassino
Phone: (812) 279–9751
(b) *Approved Course:*
Abatement Worker (full from 2/22/88).
(15)(a) *Training Provider:* Industrial Environmental Consultants.
Address: 2875 Northwind, Suite 113, East Lansing, MI 48823
Contact: James C. Fox
Phone: (517) 332–7026
(b) *Approved Course:*
Inspector/Management Planner (contingent).
(16)(a) *Training Provider:* Kemron Environmental Services.
Address: 32730 Northwestern Hwy., Farmington Hills, MI 48018
Contact: Thomas J. Martin
Phone: (313) 626–2426
(b) *Approved Course:*
Inspector/Management Planner (contingent).
(17)(a) *Training Provider:* Michigan Laborers Training Institute.
Address: 11155 South Beardslee Rd., Perry, MI 48872
Contact: Edwin H. McDonald
Phone: (517) 625–4919
(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (contingent).
(18)(a) *Training Provider:* Midwest Health Training.
Address: 3920 Central, Western Springs, IL 60558
Contact: H.C. Brown
Phone: (312) 246–9527
(b) *Approved Course:*
Abatement Worker (contingent).
(19)(a) *Training Provider:* Morraine Valley Community College.
Address: 10900 South 88th Ave., Palos Hills, IL 60465
Contact: Richard Kukac
Phone: (312) 974–4300
(b) *Approved Course:*
Inspector/Management Planner (full from 2/9/88).
(20)(a) *Training Provider:* Nova Environmental Services.
Address: Suite 420 Hazeltine Gates, 1107 Hazeltine Blvd., Chaska, MN 55318
Contact: Steven B. Cummings
Phone: (612) 448–8888
(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (contingent).
Inspector/Management Planner (contingent).
(21)(a) *Training Provider:* Nova Environmental, Inc.
Address: 704 Wesley, Ann Arbor, MI 48103
Contact: Kary S. Amin
Phone: (313) 769–3585
(b) *Approved Courses:*
Contractor/Supervisor (contingent).
Inspector/Management Planner (contingent).
(22)(a) *Training Provider:* Ohio Asbestos Workers Council.
Address: 1216 East McMillan St., Room 107, Cincinnati, OH 45206
Contact: Larry Briley
Phone: (513) 221–5969
(b) *Approved Course:*
Contractor/Supervisor (contingent).
(23)(a) *Training Provider:* Professional Service Industries.
Address: 510 East 22nd St., Lombard, IL 60148
Contact: W.K. Swartzendruben
Phone: (312) 691–1490
(b) *Approved Course:*
Inspector (contingent).
(24)(a) *Training Provider:* S.Z. Mansdorf & Assoc., Inc.
Address: 2000 Chestnut Blvd., Cuyahoga Falls, OH 44223–1323
Contact: A.L. Lott
Phone: (216) 928–5434
(b) *Approved Course:*
Contractor/Supervisor (full from 1/26/88).
(25)(a) *Training Provider:* Safety Training of Illinois.
Address: 1515 South Park, Springfield, IL 62704
Contact: S. David Farris
Phone: (217) 787–9091
(b) *Approved Course:*
Abatement Worker (full from 12/18/87).
(26)(a) *Training Provider:* South East Michigan Committee on Occupational Safety and Health SEMCOSH.
Address: 1550 Howard St., Detroit, MI 48216
Contact: Barbara Boylan
Phone: (313) 961–3345
(b) *Approved Course:*
Abatement Worker (contingent).
(27)(a) *Training Provider:* University of Cincinnati Medical Center, Institute of Environmental Health Kettering Laboratory.
Address: 3223 Eden Ave., Cincinnati, OH 45267–0056
Contact: Susan L. Millman
Phone: (517) 872–5733
(b) *Approved Courses:*
Contractor/Supervisor (full from 10/20/87).
Inspector/Management Planner (full from 11/16/87).
(28)(a) *Training Provider:* University of Illinois at Chicago M.A.I.C. School of Public Health.
Address: 2035 Taylor, Chicago, IL 60612
Contact: Tony Billotti
Phone: (312) 996–5762
(b) *Approved Courses:*
Abatement Worker (interim from 10/1/87 to 12/14/87).
Abatement Worker (full from 4/5/88).
Contractor/Supervisor (full from 10/1/87).
Inspector/Management Planner (full from 10/21/87).
(29)(a) *Training Provider:* University of Wisconsin-Extension.
Address: 422 Lowell Hall, 610 Langdon St., Madison, WI 53703
Contact: Neil DeClercq
Phone: (608) 262–2111
(b) *Approved Courses:*
Abatement Worker (full from 12/7/87).
Contractor/Supervisor (contingent).
Inspector/Management Planner (full from 2/22/88).

Region VI—Dallas, TX

Regional Asbestos Coordinator: John West, 6t–Pt, EPA, Region VI, 1445 Ross Avenue, Dallas TX 75202–2733. (214) 655–7244, (FTS) 255–7235.

List of Approved Courses: The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region VI training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* Asbestos Surveys and Training, Inc.
Address: Three Riverway, Suite 760, Houston, TX 77056
Contact: Jesse Ashley

Phone: (713) 623–0025
(b) *Approved Course:*
Abatement Worker (full from 10/22/87).
(2)(a) *Training Provider:* CERL, Inc.
Address: 1611 Calle Lorca, Suite B, Santa Fe, NM 87501
Contact: Michael Curtis
Phone: (505) 988–4143
(b) *Approved Courses:*
Contractor/Supervisor (contingent).
Inspector/Management Planner (contingent).
(3)(a) *Training Provider:* Certified Asbestos Training Institute, Inc.
Address: 4202 Argentina Cir., Pasadena, TX 77504
Contact: Maurice Hoffpowier
Phone: (713) 487–3155
(b) *Approved Course:*
Abatement Worker (contingent).
(4)(a) *Training Provider:* Critical Environmental Training.
Address: 5815 Gulf Fwy., Houston, TX 77023
Contact: Charles M. Flanders
Phone: (713) 921–4600
(b) *Approved Courses:*
Abatement Worker (full from 4/14/88).
Contractor/Supervisor (contingent).
Inspector/Management Planner (contingent).
(5)(a) *Training Provider:* Environmental Institute.
Address: P.O. Box 270278, Dallas, TX 75227
Contact: R. Michael Wheeler
Phone: (214) 324–0774
(b) *Approved Courses:*
Contractor/Supervisor (full from 1/11/88).
Inspector/Management Planner (full from 1/25/88).
(6)(a) *Training Provider:* GEBCO Associates, Inc.
Address: 805–A Elizabeth Dr., Bedford, TX 76022
Contact: Ed Kirch
Phone: (817) 268–4006
(b) *Approved Courses:*
Abatement Worker (interim from 4/15/87 to 8/19/87).
Abatement Worker (full from 8/20/87).
Contractor/Supervisor (contingent).
Inspector/Management Planner (contingent).
(7)(a) *Training Provider:* International Association of Heat and Frost Insulators, Asbestos Workers Union Local 22.
Address: 3219 Pasadena Blvd., Pasadena, TX 77503
Contact: Owen Tilley
Phone: (713) 473–0888
(b) *Approved Courses:*
Abatement Worker (interim from 10/1/87 to 12/14/87).
Abatement Worker Refresher Course (contingent).
Contractor/Supervisor (contingent).
(8)(a) *Training Provider:* Lamar University, Hazardous Materials Program.
Address: P.O. Box 10008, Beaumont, TX 77710.
Contact: Marion Foster
Phone: (409) 880–2369
(b) *Approved Course:*
Contractor/Supervisor (contingent).
(9)(a) *Training Provider:* Louisiana State University Agricultural and Mechanical College.
Address: 361 Pleasant Hall, Baton Rouge, LA 70803–1520
Contact: George Smith
Phone: (504) 388–6621
(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (contingent).
Inspector/Management Planner (full from 1/18/88).
(10)(a) *Training Provider:* Moore-Norman Area Vocational Training School.
Address: 4701–12th Ave. NW, Norman, OK 73069
Contact: Frank Coulter
Phone: (405) 364–5763
(b) *Approved Course:*
Inspector/Management Planner (contingent).
(11)(a) *Training Provider:* Texas Engineering Extension Service, Building Codes Inspection Training Div.
Address: Texas A&M University System, College Station, TX 77843–8000
Contact: Richard Thompson
Phone: (409) 845–6682
(b) *Approved Courses:*
Abatement Worker (full from 9/28/87).
Contractor/Supervisor (interim from 5/26/86 to 9/13/87).
Contractor/Supervisor (full from 9/14/87).
Inspector/Management Planner (full from 10/19/87).
(12)(a) *Training Provider:* Tulane University, School of Public Health and Tropical Medicine, Dept. of Environmental Health Sciences.
Address: 1430 Tulane Ave., New Orleans, LA 70112
Contact: Dr. Shau-Wong-Chang, PhD, CIH
Phone: (504) 588–5374
(b) *Approved Courses:*
Contactor/Supervisor (interim from 3/17/87 to 9/14/87).
Contractor/Supervisor (full from 9/15/87).
(13)(a) *Training Provider:* University of Arkansas at Little Rock, Biology Department.
Address: 33rd & University, Little Rock, AR 72204
Contact: Phyllis Moore
Phone: (501) 569–3270
(b) *Approved Course:*
Inspector/Management Planner (contingent).
(14)(a) *Training Provider:* University of Texas at Arlington, Bureau of Engineering Research.
Address: P.O. Box 19020, Arlington, TX 76019
Contact: Ernest C. Crosby
Phone: (817) 273–2557
(b) *Approved Courses:*
Contractor/Supervisor (full from 7/14/86).
Inspector/Management Planner (full from 10/19/87).

Region VII—Kansas City, KS

Regional Asbestos Coordinator: Wolfgang Brandner, EPA Region VII, 726 Minnesota Ave., Kansas City, KS 66101. (913) 236–2834, (FTS) 757–2834.
List of Approved Courses: The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Regional VII training courses and contact points for each, are as follows:
(1)(a) *Training Provider:* AGC—Eastern Missouri Laborers' Joint Training Fund.
Address: Rt. 1 Box 79H, High Hill, MO 63350
Contact: Jerald Pelker
Phone: (314) 585–2391
(b) *Approved Course:*
Abatement Worker (contingent).
(2)(a) *Training Provider:* Aerostat Asbestos Engineering Consulting, Inc.
Address: P.O. Box 12037, Kansas City, KS 66112
Contact: Damir Joseph Stimac
Phone: (913) 788–3307
(b) *Approved Course:*
Inspector/Management Planner (contingent).
(3)(a) *Training Provider:* Asbestos Consulting Testing (ACT).
Address: 15001 West 101st Ter., Lenexa, KS 66215
Contact: Jim Pickel
Phone: (913) 492–1346
(b) *Approved Courses:*

Abatement Worker (full from 1/25/88).
Contractor/Supervisor (full from 1/25/88).
(4)(a) *Training Provider:* Des Moines Health Associates.
Address: 4725 Merle Hay Rd., Suite 214, Des Moines, IA 50322
Contact: Mary A. Finn
Phone: (515) 276–3642
(b) *Approved Courses:*
Abatement Worker (full from 11/17/87).
Contractor/Supervisor (full from 11/17/87).
Inspector/Management Planner (full from 2/22/88).
(5)(a) *Training Provider:* Environmental Inspection Services.
Address: 902 Cherokee St., St. Louis, MO 63118
Contact: Leo F. Mann, Jr.
Phone: (314) 776–4000
(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (contingent).
(6)(a) *Training Provider:* Environmenal Technology, Inc.
Address: 4315 Merriam Dr., Overland Park, KS 66203
Contact: Mike Franano
Phone: (913) 236–5040
(b) *Approved Course:*
Abatement Worker (full from 2/29/88).
(7)(a) *Training Provider:* Greater Kansas City Laborers Training Trust Fund.
Address: 8944 Kaw Dr., Kansas City, KS 66111
Contact: James D. Barnett
Phone: (913) 441–6100
(b) *Approved Course:*
Abatement Worker (contingent).
(8)(a) *Training Provider:* Hall-Kimbrell Environmental Services.
Address: 4840 West 15th St., Lawrence, KS 66046
Contact: Alice Hart
Phone: (913) 749–2381
(b) *Approved Courses:*
Abatement Worker (full from 8/17/87).
Contractor/Supervisor (full from 8/17/87).
Inspector/Management Planner (full from 8/17/87).
Project Designer (full from 8/17/87).
(9)(a) *Training Provider:* Iowa Laborers District Council Training Fund.
Address: 5806 Meredith Dr., Des Moines, IA 50322
Contact: Jack G. Jones
Phone: (515) 272–6965
(b) *Approved Course:*
Abatement Worker (contingent).
(10)(a) *Training Provider:* Kansas Construction Laborers' Training Trust Fund.
Address: 2430 Marlatt Ave., Manhattan, KS 66502
Contact: Fred Tipton
Phone: (913) 539–7902
(b) *Approved Course:*
Abatement Worker (contingent).
(11)(a) *Training Provider:* MI–TON Inc.
Address: P.O. Box 1582, Branson, MO 65616
Contact: Tony Williams
Phone: (417) 335–6743
(b) *Approved Course:*
Inspector/Management Planner (full from 3/14/88).
(12(a) *Training Provider:* Mahew Environmental Training Associates, Inc. (META).
Address: P.O. Box 1961, Lawrence, KS 66044
Contact: Brad Mahew
Phone: (913) 842–6382
(b) *Approved Courses:*
Abatement Worker (full from 1/25/88).
Contractor/Supervisor (full from 1/25/88).
Inspector/Management Planner (full from 2/8/88).
(13)(a) *Training Provider:* Maple Woods Community College.
Address: 10771 Ambassador Dr., Kansas City, MD 64133
Contact: James C. Lauer
Phone: (816) 436–6500
(b) *Approved Courses:*
Abatement Worker (full from 2/1/88).
Contractor/Supervisor (full from 3/28/88).
Inspector/Management Planner (contingent).
(14)(a) *Training Provider:* University of Kansas, Division of Continuing Education.
Address: 6600 College Blvd., Suite 315, Overland Park, KS 66211
Contact: Lani Himegarner
Phone: (913) 648–5790
(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (interim from 6/1/85 to 9/9/87).
Contractor/Supervisor (contingent).
Inspector/Management Planner (contingent).

Region VIII—Denver, CO

Regional Asbestos Coordinator: David Combs, [8AT–TA], EPA, Region VIII, 1 Denver Place, 999–18th St., Suite 500, Denver, CO 80202–2413. (303) 293–1744, (FTS) 564–1744.

List of Approved Courses: The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region VIII training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* Colorado State University, Dept. of Industrial Sciences.
Address: Fort Collins, CO 80523
Contact: Birgit Wolff
Phone: (303) 491–1551
(b) *Approved Course:*
Inspector/Management Planner (contingent).
(2)(a) *Training Provider:* Hager Laboratories, Inc.
Address: 11234 East Caley Ave., Englewood, CO 80111
Contact: Steve Herron
Phone: (303) 790–2727
(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (contingent).
Inspector/Management Planner (contingent).
(3)(a) *Training Provider:* Industrial Health, Inc.
Address: 640 East Wilmington Ave., Salt Lake City, UT 84106
Contact: Donald E. Marano
Phone: (801) 466–2223
(b) *Approved Course:*
Contractor/Supervisor (contingent).
(4)(a) *Training Provider:* Major Safety Inc.
Address: 1510 Glen Ayr St., Suite 200, Lakewood, CO 80215
Contact: Tom Major
Phone: (303) 252–9515
(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (contingent).
Inspector/Management Planner (contingent).
Project Designer (contingent).
(5)(a) *Training Provider:* NATEC International.
Address: 2761 West Oxford Ave. #7, Englewood, CO 80110
Contact: James Maxwell
Phone: (303) 825–6513
(b) *Approved Course:*
Abatement Worker (contingent).
(6)(a) *Training Provider:* Northern Engineering and Testing, Inc.
Address: 600 South 25th St., P.O. Box 30615 Billings, MT 59107
Contact: Kathleen Smit
Phone: (406) 248–9161.
(b) *Approved Course:*
Abatement Worker (full from 12/8/87).

(7)(a) *Training Provider:* Rocky Mountain Center for Occupational and Environmental Health, University of Utah.

Address: Building 512, Salt Lake City, UT 84112
Contact: Jeffery Lee
Phone: (801) 581–5710.

(b) *Approved Courses:*
Contractor/Supervisor (full from 11/16/87).
Inspector/Management Planner (full from 2/8/88).

Region IX—San Francisco, CA

Regional Asbestos Coordinator: Joanne Semones, [T–52], EPA, Region IX, 215 Fremont St., San Francisco, CA 94105. (415) 974–7290, (FTS) 454–7290.

List of Approved Courses: The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region IX training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* ABMS, Inc.

Address: 5506 San Pablo Ave., Oakland, CA 94608
Contact: Otis Wong
Phone: (415) 547–7144

(b) *Approved Course:*
Abatement Worker (contingent).

(2)(a) *Training Provider:* Dan Napier and Associates.

Address: 15342 Hawthorne Blvd., Suite 207, Lawndale, CA 90260–2105
Contact: Dan Napier
Phone: (214) 316–1058

(b) *Approved Course:*
Abatement Worker (contingent).

(3)(a) *Training Provider:* Environmental Sciences.

Address: 375 South Meyer, Tucson, AZ 85701
Contact: Paula Keyes
Phone: (602) 792–0097

(b) *Approved Course:*
Inspector/Management Planner (full from 10/5/87).

(4)(a) *Training Provider:* International Technology Corporation.

Address: 336 West Anaheim St., Wilmington, CA 90744
Contact: Keith Soebe
Phone: (213) 830–1781

(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (contingent).

(5)(a) *Training Provider:* MED–TOX Associates, Inc.

Address: 1431 Warner Ave., Suite A, P.O. Box 2054, Tustin, CA 92681
Contact: Susan Patnode
Phone: (714) 259–0620

(b) *Approved Courses:*
Abatement Worker (contingent)
Contractor/Supervisor (contingent).

(6)(a) *Training Provider:* National Abatement Technology Employment Center (NATEC).

Address: 13692 Newhope Ave., Garden Grove, CA 92643
Contact: Ronald Sandlin
Phone: (714) 530–0407

(b) *Approved Courses:*
Abatement Worker (contingent).
Contractor/Supervisor (contingent).

(7)(a) *Training Provider:* National Institute for Asbestos Training

Address: 1019 West Manchester Blvd., Inglewood, CA 90301
Contact: Jim McFarland
Phone: (213) 645–4516

(b) *Approved Courses:*
Abatement Worker (full from 12/7/87).
Contractor/Supervisor (full from 12/7/87).

(8)(a) *Training Provider:* Pacific Asbestos Information Center U.C. Extension.

Address: 2223 Fulton St., Berkeley, CA 94720.
Contact: Debra Dobin
Phone: (415) 643–7143

(b) *Approved Courses:*
Contractor/Supervisor (full from 2/2/87).
Inspector/Management Planner (full from 11/16/87).

(9)(a) *Training Provider:* University of Southern California & University Associates, Ltd., Institute of Safety & Systems Management.

Address: Safety Science Dept., 3500 South Figueroa St., Suite 202, Los Angeles, CA 90007
Contact: John D. Repko
Phone: (213) 743–6523

(b) *Approved Course:*
Inspector/Management Planner (full from 1/11/88).

Region X—Seattle, WA

Regional Asbestos Coordinator: Walter Jasper, EPA, Region X, 1200 Sixth Ave., Seattle, WA 98101. (206) 442–2870, (FTS) 399–2870.

List of Approved Courses: The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region X training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* Certified Industrial Hygiene Services, Inc.

Address: 911 Western Ave., Suite 206, Seattle, WA 98104
Contact: Eileen Kirkpatrick
Phone: (206) 783–9506

(b) *Approved Course:*
Inspector (contingent).

(2)(a) *Training Provider:* Engineering Continuing Education, University of Washington

Address: GG–13, Seattle, WA 98195
Contact: Creighton Depew
Phone: (206) 543–5339

(b) *Approved Course:*
Inspector/Management Planner (full from 2/8/88).

(3)(a) *Training Provider:* Environmental Health Sciences, Lake Washington Vo-Tech.

Address: 11605 132nd Ave., NE, Kirkland, WA 98304
Contact: Dave Rodewald
Phone: (206) 828–5643

(b) *Approved Course:*
Inspector/Management Planner (full from 4/11/88).

(4)(a) *Training Provider:* Hazcon, Inc., Health Hazard Control Services

Address: 5950 6th Ave., S, Suite 216, Seattle, WA 98108
Contact: Mike Krause
Phone: (206) 763–7364

(b) *Approved Course:*
Inspector/Management Planner (full from 4/4/88).

(5)(a) *Training Provider:* Northwest Envirocon, Inc.

Address: 181 A St., Washougal, WA 98671
Contact: Randy Hall
Phone: (206) 835–8576

(b) *Approved Course:*
Inspector/Management Planner (contingent).

(6)(a) *Training Provider:* PBS Environmental Building Consultant, Inc.

Address: 1220 South West Morrison, Portland, OR 97205

Contact: John Perkins

Phone: (503) 248–1939

(b) *Approved Course:*

Inspector/Management Planner (full from 3/14/88).

(7)(a) *Training Provider:* University of Alaska, Mining and Petroleum Training Services.

Address: 155 Smith Way, Suite 104, Soldotna, AK 99669

Contact: Dennis D. Steffy

Phone: (907) 262–2788

(b) *Approved Course:*

Inspector/Management Planner (full from 4/11/88).

Dated: May 24, 1988.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 88–12195 Filed 5–31–88; 8:45 am]

BILLING CODE 6560–50–M

federal register

Wednesday
June 1, 1988

Part III

Department of Defense

Department of the Navy

Record of Decision to Operate the Electromagnetic Pulse Radiation Environment Simulator for Ships [Second Generation] EMPRESS II in the Virginia Capes Operating Area in International Waters of the Atlantic Ocean; Notice

Part III

Department of Defense

Department of the Navy

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision to Operate the Electromagnetic Pulse Radiation Environment Simulator for Ships [Second Generation] EMPRESS II in the Virginia Capes Operating Area in International Waters of the Atlantic Ocean

Pursuant to section 102(2)(c) of National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality Regulations (40 CFR Part 1500), the U.S. Navy announces its decision to operate the EMPRESS II facility in International Waters in the Virginia Capes (VACAPES) Operating Area, approximately 15 miles offshore from Currituck Light, North Carolina with an anchor point at 36°28'00" N/75°32'30"W.

The action consists of the operation of the EMPRESS II facility during its lifetime, associated support operations, and actions necessary to establish and operate the test site. The concept employed by EMPRESS II incorporates a barge mounted electromagnetic pulse (EMP) simulator to provide a towable facility for the purpose of assessing the vulnerability/survivability of Navy ships' electrical/electronic equipment to EMP exposure.

In April 1983, the Navy gave notice of its intent to prepare an Environmental Assessment (EA) for the proposed operation of the Electromagnetic Pulse Radiation Environmental Simulator for Ships, second generation (EMPRESS II). Official notice was given August 10, 1984 in the **Federal Register** (Vol. 49, No. 156) of the intent to upgrade the EA and the file an Environmental Impact Statement (EIS). On September 21, 1984, a public notice was given in the **Federal Register** (Vol. 29, No. 185) of the availability of the Draft Environmental Impact Statement (DEIS). A series of technical information exchange meetings was initiated in 1985 to inform Federal and State agencies of the ongoing studies that were initiated to gain additional information regarding the potential effects of EMPRESS II on the environment. On December 19, 1986, a Supplemental Draft Environmental Impact Statement was filed. Public hearings were held in Maryland, Virginia, and North Carolina in January 1987. The Final Environmental Impact Statement was completed and filed with the Environmental Protection Agency in April 1988.

Alternative concepts to EMPRESS II that were considered included no action, analysis and computer modeling, laboratory testing, upgrade of EMPRESS I, upgrade of EMPRESS I with relocation to a new land-based site, and the use of a fixed offshore facility.

The Alternative concepts were not acceptable for the reasons indicated in the following sentences. *No Action* would result in a continued inadequate EMP survivability validation capability. *Analysis and Computer Modeling* is deemed inefficient and unsatisfactory due to the complexity of the problem. *Laboratory Testing is not sufficient by itself without validation with empirical data from full-scale EMP testing of ships. Upgrade EMPRESS I* was ruled out as it would require extensive dredging and replacement of the Point Patience vehicle bridge. An *Upgrade of EMPRESS I with Relocation to a New Land-Based Site* was ruled out after a survey of 97 potential sites found none to be acceptable. The construction of a *Fixed Offshore Facility* such as a platform or artificial island is prohibitively expensive.

Alternative operating areas that were considered in the final analysis included three sites in the Chesapeake Bay (Windmill Point (37°,35' N/76°,08' W), Tangier Island (37°40' N/76°02' W) and Bloodsworth Island (38°09' N/76°12' W); Guantanamo Bay, Cuba; and the proposed VACAPES Operating Area offshore site (36°28'00" N/75°32'30" W), 15 miles offshore from Currituck Light, North Carolina. There is no documented impact on the human environment/natural resources at any of the alternative operating areas.

Intensive laboratory and free-field tests and observations conducted on a variety of plankton, shellfish, finfish, turtles, and birds over an 18-month period indicated that the organisms under test exhibited no increased mortality nor significant behavioral modification as a result of multiple exposures to EMP. The reports documenting these tests were compiled in an unedited form and filed as a Supplemental DEIS (December 1986). EMPRESS II operations will not present any danger to human health or safety of recreational boaters/fisherman. EMPRESS II will not interfere with land based communication equipment such as telephone, police and emergency radios, etc.

The VACAPES site has been selected as the sole operating site for a variety of reasons. It offers access to a full range of ships in an area monitored and controlled by the Fleet Area Control and Surveillance Facility. It can be utilized to test deep draft ships which do not have unrestricted access to the Chesapeake Bay. The site presents minimal conflict with other users in the area.

Operations will be conducted at the VACAPES site during the summer months of June through August. The public will be notified of the EMPRESS II schedule and the associated restrictions by appropriate entries in "Notice to Mariners" and "Notice to Airmen". Additionally, notifications of the operating schedule will be provided to area news media for further dissemination.

The restrictions consist of a two-nautical-mile radius exclusion zone around EMPRESS II, extending from the surface to an altitude of 6000 feet. The exclusion zone restriction will mitigate any adverse effects that could occur to shipboard and aircraft electronics if they were exposed to high levels of EMP which occur ner the EMPRESS II vessel. The Navy will attempt to minimize (mitigate) the effects of the exclusion zone by coordinating, when possible, pulsing operations with other users of the test area. The site does not contain any fishing hot spots and is not located in any major shipping lanes. The Navy will provide a vessel(s), to observe and patrol the exclusion area, in order to prevent inadvertent incursion into the operating area. Additional support will be provided by Fleet Area Control and Surveillance Facility, (FACSFAC VACAPES OPS AREA) Virginia Beach, VA for controlling exclusion zone airspace. Ordnance which can be affected by electromagnetic radiation will removed from the test ships. Human health guidelines published as Appendix EE in the SDEIS will be followed.

The Navy, in an effort to further document and quantify the conclusions drawn during the EIS process, will provide for an independent Field Observation Program, conducted by known experts in the field of marine science (such as the North Carolina Museum of Natural History, University of Maryland, and the Virginia Institute of Marine Science). The independent scientists will observe for any adverse effects on marine life and any changes to the ecosystem. As with previous environmental research related to EMPRESS II, the final reports will be available to the public.

Date: May 31, 1988.

Jane M. Virga, LT. JAGC, USNR,

Alternate Federal Register Liaison Officer.

[FR Doc. 88-12458 Filed 5-31-88; 11:00 am]

BILLING CODE 3810-AE-M

federal register

Wednesday,
June 1, 1988

Part IV

Department of Justice

Immigration and Naturalization Service

8 CFR Part 274a

Control of Employment of Aliens; Final Rule

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 274a

[INS Number 1023-88]

Control of Employment of Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule stays and suspends § 274a.14(c) of Title 8 of the Code of Federal Regulations. 8 CFR § 274a.14(c) provides that all temporary employment authorization granted prior to June 1, 1987 shall automatically terminate on the date specified by the Service on the document issued to the alien, or on June 1, 1988, whichever is earlier. Any document issued by the Service prior to June 1, 1987 that authorizes temporary employment for a period beyond June 1, 1988 will become null and void on June 1, 1988. The alien must surrender the document to the Service on the date the document expires or on June 1, 1988, whichever is earlier.

This rule stays and suspends the effective date contained in 8 CFR § 274a.14(c) for automatic termination of temporary employment authorization. The automatic termination date for temporary employment authorization granted prior to June 1, 1987 is suspended indefinitely while the Service explores the technology to standardize employment authorization documents. This action is necessary to allow the Service to perfect a standardized employment authorization document. This rule also permits those individuals granted temporary employment authorization prior to June 1, 1987, and whose authorization would have been terminated by the operation of 8 CFR § 274a.14(c), to maintain their authorization for employment and to continue to be authorized for employment in the United States on their present employment authorization document until the date of expiration reflected on the document.

EFFECTIVE DATE: June 1, 1988.

FOR FURTHER INFORMATION CONTACT: Walter D. Cadman, Deputy Assistant Commissioner, Investigations Division, Immigration and Naturalization Service, 425 Eye Street NW., Washington, DC 20536, Telephone: (202) 633-2997.

SUPPLEMENTARY INFORMATION: The Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99-603, was enacted on November 6, 1986. The Immigration and Nationality Act (Act), as amended by IRCA, provides that it is unlawful for a person or entity, after November 6, 1986, to knowingly hire, recruit or refer for a fee, for employment in the United States, an alien, knowing that the alien is not authorized to work in the United States. It is also unlawful for a person or entity to continue to employ an alien, hired after November 6, 1986, knowing that the alien is or has become unauthorized for employment in the United States. The Act and its augmenting regulations require employers, recruiters and referrers for a fee to verify the identity and employment eligibility of persons hired, recruited or referred.

All individuals hired after November 6, 1986 for employment in the United States must produce documentary proof of identity and employment eligibility. For aliens who are required to apply for employment authorization, as set forth in 8 CFR § 274a.12(c), the Service issues an employment authorization document evidencing that the alien is authorized to be employed in the United States.

8 CFR § 274a.14(c) currently provides that any temporary employment authorization granted prior to June 1, 1987, pursuant to 8 CFR 109.1(b) or its redesignation as § 274a.12(c), shall automatically terminate on the date specified by the Service on the document issued to the alien, or on June 1, 1988, whichever is earlier. Any document issued by the Service prior to June 1, 1987 that authorizes temporary employment beyond June 1, 1988 will become null and void on June 1, 1988, and must be surrendered to the Service on the date of the document's expiration or on June 1, 1988, whichever is earlier. The public was advised that no notice of intent to revoke or other Service advisory was necessary to effectuate the termination.

The Service is dedicated to the creation of a secure, standardized employment authorization system. Both the public and the INS will benefit from the implementation of such a system. Uniform employment authorization documents will assist employers in accurately ad expeditiously completing the employment eligibility verification requirements contained in 8 U.S.C. 1324a(b) and 8 CFR 274a.2. Furthermore, the issuance of uniform employment authorization documents will insure that only eligible aliens receive this benefit, and will increase the Service's ability to detect fraudulent employment authorization documents. The Service is actively investigating available technologies in order to select a system designed to fulfill these goals. Therefore, in order to promote clarity in the issuance of employment authorization documents, the automatic termination date for temporary employment authorization issued prior to June 1, 1987 will be extended indefinitely. This amendment allows individuals who received temporary employment authorization prior to June 1, 1987, and whose authorization would have been terminated by the operation of 8 CFR 274a.14(c), to continue to be authorized for employment in the United States on their present employment authorization document until the date of expiration reflected on the document.

Other than staying and suspending the date that temporary employment authorization granted prior to June 1, 1987 would have automatically terminated pursuant to 8 CFR 274a.14(c), the remainder of § 274a.14 remains unchanged.

Justification for Final Rule

The Immigration and Naturalization Service is invoking the "good cause" exception to the notice and comment rulemaking procedures established by the Administrative Procedures Act [5 U.S.C. 553 (b) and (d)]. Notice of this rule and related public comment procedures would be contrary to the public interest since the time that would be required for comment would delay implementation of the rule. Expeditious implementation of a final rule is necessary to officially notify the public of the stay of automatic termination of temporary employment authorizations issued prior to June 1, 1987. In addition, a delay in implementing this change might cause unnecessary employment conflicts for those aliens whose work authorization would have been automatically terminated by the operation of this regulation.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule will not have a significant impact on a substantial number of small entities.

This is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 274a

Administrative Practice and Procedure, Aliens, Employment.

Accordingly, for the reasons set out in the preamble, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

1. The authority citation for Part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a.

2. Section 274a.14(c) is stayed and suspended until further notice.

§ 274a.14 [Amended]

8 CFR §274a.14(c) is stayed and suspended until further notice.

Dated: May 25, 1988.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 88-12470 Filed 5-31-88; 12:09 pm]

BILLING CODE 4410-10-M

Reader Aids

Federal Register

Vol. 53, No. 105

Wednesday, June 1, 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, JUNE

CFR PARTS AFFECTED DURING JUNE

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.

7 CFR

987.....19879
989.....19880
1425.....19882
Proposed Rules:
1446.....19923
1944.....19924

8 CFR

274a.....20086

10 CFR

Proposed Rules:
50.....19930

12 CFR

606.....19884

16 CFR

444.....19893
Proposed Rules:
13.....19930

19 CFR

132.....19896
Proposed Rules:
177.....19933

24 CFR

201.....19897
203.....19897
234.....19897
885.....19899

30 CFR

904.....19903
Proposed Rules:
936.....19934

32 CFR

285.....19905

33 CFR

100.....19906

40 CFR

180.....19907
Proposed Rules:
228.....19934
763.....19945

41 CFR

Proposed Rules:
101-41.....19946

42 CFR

Proposed Rules:
435.....19950
440.....19950
441.....19950

44 CFR

64.....19907, 19909

45 CFR

Proposed Rules:
670.....19964

47 CFR

73.....19912, 19913
Proposed Rules:
73.....19964-19966

48 CFR

Proposed Rules:
215.....19966
252.....19966

49 CFR

30.....19914
Proposed Rules:
1002.....19969

50 CFR

23.....19919
672.....19921
Proposed Rules:
661.....19971

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List May 25, 1988

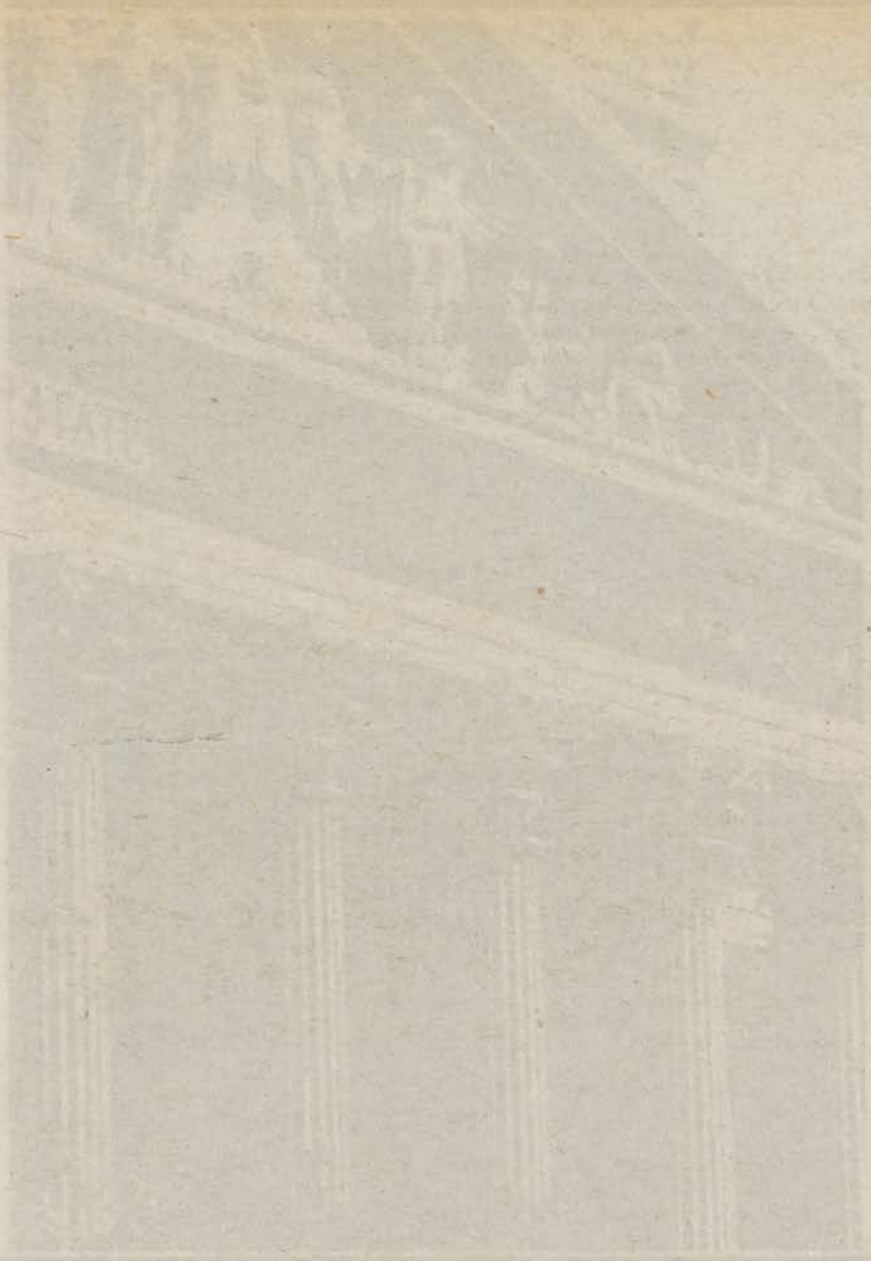
TABLE OF EFFECTIVE DATES AND TIME PERIODS—JUNE 1988

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
June 1	June 16	July 1	July 18	July 31	August 30
June 2	June 17	July 5	July 18	August 1	August 31
June 3	June 20	July 5	July 18	August 2	September 1
June 6	June 21	July 6	July 21	August 5	September 6
June 7	June 22	July 7	July 22	August 8	September 6
June 8	June 23	July 8	July 25	August 8	September 6
June 9	June 24	July 11	July 25	August 8	September 7
June 10	June 27	July 11	July 25	August 9	September 8
June 13	June 28	July 13	July 28	August 12	September 12
June 14	June 29	July 14	July 29	August 15	September 12
June 15	June 30	July 15	August 1	August 15	September 13
June 16	July 1	July 18	August 1	August 15	September 14
June 17	July 5	July 18	August 1	August 16	September 15
June 20	July 5	July 20	August 4	August 19	September 19
June 21	July 6	July 21	August 5	August 22	September 19
June 22	July 7	July 22	August 8	August 22	September 20
June 23	July 8	July 25	August 8	August 22	September 21
June 24	July 11	July 25	August 8	August 23	September 22
June 27	July 12	July 27	August 11	August 26	September 26
June 28	July 13	July 28	August 12	August 29	September 26
June 29	July 14	July 29	August 15	August 29	September 27
June 30	July 15	August 1	August 15	August 29	September 28



Would you like to know...

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected),* the *Federal Register Index,* or both.

LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected.

$24.00 per year

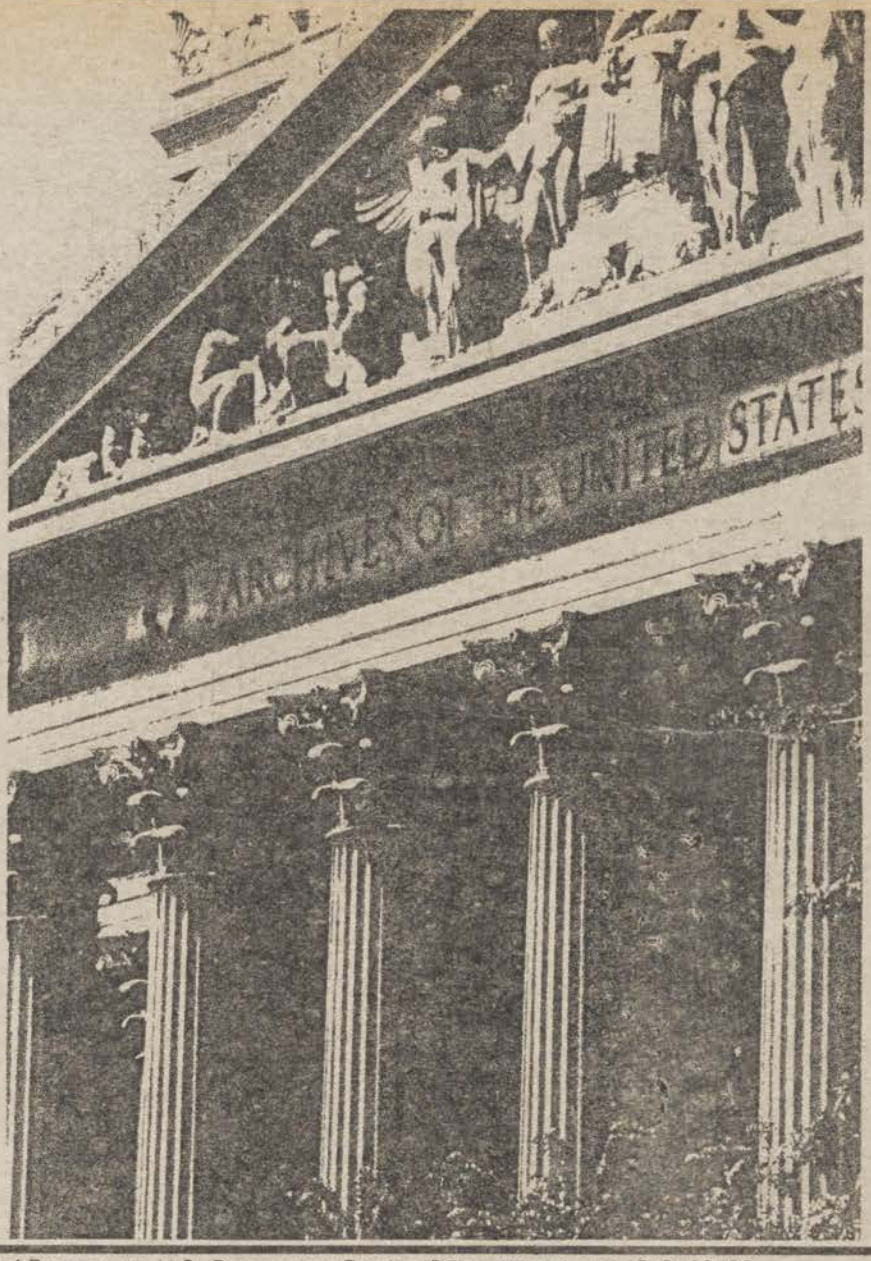
Federal Register Index

The Index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

$22.00 per year

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register

Note to FR Subscribers
FR Indexes and the LSA (List of CFR Sections Affected) are mailed automatically to regular FR subscribers.



Order Form

Mail To Superintendent of Documents, U.S Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐–☐

Order No._____

MasterCard and VISA accepted.

Credit Card Orders Only

Total charges $ ____

Credit Card No.

Expiration Date Month/Year

Customer's Telephone Nos.

Area Code Home Area Code Office

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 enter the subscription(s) I have indicated

LSA
List of CFR Sections Affected
$24.00 a year domestic
$30.00 foreign

Federal Register Index
$22.00 a year domestic
$27.50 foreign

PLEASE PRINT OR TYPE

Company or Personal Name

Additional address/attention line

Street address

City State ZIP Code

(or Country)

(Rev 10-1-85)