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Friday
June 10, 1988

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WHO: The Office of the Federal Register.

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1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
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4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

WHEN: 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. 112

Friday, June 10, 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.

3 CFR

Executive Orders:
12642 21975

7 CFR
800 21791
910 21792
946 21793
1425 21966
3403 21966

Proposed Rules:
1001 21825
1002 21825
1004 21825
1230 21836
1446 21964

9 CFR
92 21794

12 CFR

Proposed Rules:
584 21838

14 CFR
39 21809
71 21811
97 21811

16 CFR
1501 21964

18 CFR

Proposed Rules:
4 21824
16 21824
141 21853
260 21853
357 21853

21 CFR
1301 21813

22 CFR

Proposed Rules:
20 21854

33 CFR
3 21814
100 21815
160 21814
165 21815

Proposed Rules:
173 21856
174 21856

37 CFR
202 21817

39 CFR
111 21820

41 CFR
101-38 21821

43 CFR

Proposed Rules:
426 21857

46 CFR
10 21822
15 21822

47 CFR
97 21822

Proposed Rules:
74 21861

48 CFR
519 21823

Proposed Rules:
215 21862

50 CFR

Proposed Rules:
600 21863
601 21863
604 21863
605 21863

Rules and Regulations

Federal Register
Vol. 53, No. 112
Friday, June 10, 1988

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Fees for Official Inspection, Weighing, and Appeal Inspection Services Performed in Canada

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is increasing its fees by approximately 103 to 134 percent for official inspection, weighing, and appeal inspection services performed in Canada under the United States Grain Standards Act (USGSA), as amended. This increase is intended to cover, as nearly as practical, the FGIS costs of providing grain inspection and weighing services in Canada.

EFFECTIVE DATE: June 10, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Resources Management Division, USDA, FGIS, P.O. Box 96454, Washington, DC, 20090–6454, telephone (202) 475–3428.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Mr. W. Kirk Miller, Administrator, FGIS, has determined that this final rule does not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services do not meet the requirements for small entities.

Final Action

In the March 18, 1988, Federal Register (53 FR 8921) FGIS proposed increases in the fees for official inspection, weighing, and appeal inspection services performed in Canada under the United States Grain Standards Act (USGSA). Three comments were received regarding the proposed increase in fees. The commenters represented operational interests of grain handlers and processors and an association of ship owners, charterers, operators and agents providing overseas and coastal services to and from eastern Canadian seaports as well as ports on the St. Lawrence River and the Great Lakes.

The commenters recognized the need for a fee increase but opposed the magnitude of the proposed increase because of the potential adverse effect on shipments of grain from the St. Lawrence seaway, and the impact on the price of grain.

Based upon all information available, including comments received and analysis of recent FGIS program costs and revenue, FGIS has determined that it will increase fees for inspection and weighing services performed in Canada by approximately 103 to 134 percent rather than the 124 to 159 percent shown in the March 18, 1988, Federal Register (53 FR 8921). FGIS has reviewed its recent Canadian services cost and revenues and found that costs continue to exceed revenue. While a fee increase is necessary, a reduction of approximately 9.4% in the proposed level of fees is made in this final rule.

In fiscal year 1987, FGIS revenues for inspection and weighing services in Canada totaled $227,000 and operating costs totaled $378,000 resulting in a loss of $151,000, which depleted the applicable operating reserves. Fiscal year 1988 (October 1, 1987 through March 31, 1988) revenues for inspection and weighing services in Canada have been $102,800, while operating costs were $139,000, resulting in a loss of $36,200, which has continued to deplete the operating reserve. The immediate fee increase will reduce the estimated revenue deficit during the remainder of fiscal year 1988 and cover estimated costs in subsequent years.

FGIS had projected fiscal year 1988 operating costs to be approximately $403,000 and revenues to be approximately $306,000 (assuming the fees, as proposed, were to be implemented on June 1, 1988). Projections based upon the most current information are for fiscal year 1988 costs to be approximately $365,000, and revenues to be approximately $287,000 (assuming the fees in this final rule were implemented June 1, 1988). Since costs would be reduced, a reduction in the level in the proposed fee increase is possible.

FGIS recognizes that the level of fees may affect demand for service. Nonetheless, the USGSA, as amended (7 U.S.C. 71 *et seq.*), requires that FGIS charge and collect reasonable fees that cover the estimated cost to the Service for performing official inspection, weighing, and appeal inspection services, including related administrative and supervisory costs. FGIS continually monitors its cost, revenue, and operating reserve levels to assure that there are sufficient resources for the Service's operations. FGIS has continued to reduce staffing levels in Canada and to take other cost-saving measures in an effort to provide cost-effective services without endangering its ability to respond to the grain industry's need for quality service.

Operating costs include personnel compensation, personnel benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment. While the demand for the services FGIS provides may fluctuate, certain costs remain constant in order to provide quality service on demand.

Pursuant to the Administrative Procedures Act, 5 U.S.C. 553, good cause is found for making this final rule effective upon publication in the Federal Register because the inspection, weighing, and appeal inspection programs in Canada are operating at losses, the applicable operating reserves are seriously depleted and it is important to have revenues cover costs as soon as possible.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, Grain.

For the reasons set out in the preamble, 7 CFR Part 800 of the regulations is amended as follows:

PART 800—GENERAL REGULATIONS

1. The authority citation for Part 800 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

2. Section 800.71 (a), Schedule B is revised to read as follows:

§ 800.71 Fees assessed by the Service.

(a) * * *

SCHEDULE B.—FEES FOR OFFICIAL INSPECTION, WEIGHING, AND APPEAL INSPECTION SERVICES PERFORMED IN CANADA[1]

Inspection and weighing service (bulk or sacked grain)	Regular workday (Monday thru Saturday)	Nonregular workday (Sunday and holiday)
(1) Original inspection services and official weighing services: [2 3]		
(i) Contract services (per hour per service representative)	$103.00	$130.00
(ii) Noncontract service (per hour per service representative)	137.00	172.00
(2) Extra copies of certificates (per copy)	3.00	3.00

[1] Official inspection and weighing services include, but are not limited to grading, weighing, sampling, stowage examination, equipment testing, scale testing and certification, test weight reverification, evaluation of inspection and weighing equipment demonstrating official inspection and weighing functions, furnishing standard illustrations, and certifying inspection and weighing results.

[2] Fees for reinspection and appeal inspection services shall be assessed at the applicable contract or noncontract hourly rate as the original inspection. However, if additional personnel are required to perform the reinspection or appeal inspection service, the applicant will be assessed the noncontract original inspection hourly fee.

[3] Board appeal inspections are based on file samples. See § 800.71, Schedule A for Board Appeal fees.

* * * * *

Dated: May 23, 1988.

W. Kirk Miller,

Administrator.

[FR Doc. 88–13075 Filed 6–9–88; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 617]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 617 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 385,000 cartons during the period June 12 through June 18, 1988. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 617 (§ 910.917) is effective for the period June 12 through June 18, 1988.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: 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 requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action 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 Agricultural Marketing Agreement 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.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987–88. The committee met publicly on June 7, 1988, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a 11–2 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market for lemons is steady.

Pursuant to 5 U.S.C. 533, it is further found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of this Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. Section 910.917 is added to read as follows:

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

§ 910.917 Lemon Regulation 617.

The quantity of lemons grown in California and Arizona which may be handled during the period June 12, 1988, through June 18, 1988, is established at 385,000 cartons.

Dated: June 8, 1988.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 88–13256 Filed 6–9–88; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 946

[AMS-FV-88-013FR]

Irish Potatoes Grown in Washington; Amendment No. 8 to Continuing Handling Regulation to Relax the Minimum Size Requirement for Round Red Potatoes and Reduce the Minimum Quantity Exemption

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule reduces the minimum size requirement for high quality, round red potatoes from 1½ inches to 1 inch in diameter and lowers the minimum quantity exemption from 20 hundredweight to 5 hundredweight per day. The reduced size requirement will also apply to imported round red potatoes during the months of July and August. The intent of these actions is to meet current demand for smaller, high quality round red potatoes and to decrease the volume of uninspected, low quality potatoes entering fresh market channels.

EFFECTIVE DATE: July 1, 1988.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 946 (7 CFR Part 946), as amended, regulating the handling of Irish potatoes grown in the State of Washington. This order is authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this 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 50 handlers of Washington State potatoes subject to regulation under the marketing order, and approximately 360 producers in the production area. There are about 25 potato importers subject to the requirements of the potato import regulation. The Small Business Administration (13 CFR 121.2) has defined small agricultural producers as those having annual gross revenue 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 Washington State potatoes and importers of potatoes may be classified as small entities.

Fresh shipments of Washington round red potatoes have risen from 96,900 hundredweight (cwt.) in 1981–82 to 235,000 cwt. in the 1986–87 season. This increase has been continuous except for a drop in 1985–86. As of April 30, 1988, total fresh shipments of Washington potatoes are down from the previous season; however, fresh round red shipments are up to 300,000 cwt. compared with 235,000 cwt. during a corresponding period last year. Round red potatoes in Washington currently comprise approximately 5 percent of total fresh shipments, and less than 1 percent of total production. Over 97 percent of the round red potato crop is utilized in the fresh market, where consumer preference and demand determine sales. With these potatoes subject to buyer scrutiny, size, shape, and overall quality are of vital importance in meeting the consumer preference.

The handling requirements for fresh Washington potatoes are specified in § 946.336 (53 FR 8143, March 14, 1988). The current requirements for round red potatoes specify that they be shipped under the following conditions. Round red potatoes must grade at least U.S. No. 2 and must have a minimum diameter of 1⅞ inches (47.6 mm) except size "B" (1½ inches minimum diameter) may be shipped if otherwise grading U.S. No. 1. Furthermore, the maturity requirement for round red potatoes is that they shall not be more than "moderately skinned."

This rule reduces the minimum size requirement for U.S. No. 1 round red potatoes from 1½ inches to 1 inch minimum diameter. This rule also decreases the minimum quantity exemption from 20 cwt. to 5 cwt. per day. These changes were recommended by the State of Washington Potato Committee to become effective beginning with the 1988–89 season which commences July 1.

A proposal inviting comments on this action was published in the **Federal Register** on April 14, 1988 (53 FR 12423). Interested persons were invited to submit comments until May 16, 1988. No comments were received.

The relaxed size requirement affords producers and handlers the opportunity to meet current market demand for small, high quality round red potatoes. This change is expected to benefit consumers by providing them with a product they desire, and producers and handlers by increased sales. This relaxation should not adversely affect the market for larger round red potatoes.

Under the current regulation, handlers are able to ship up to 20 cwt. per day without regard to inspection and assessment requirements. This exemption allows the unregulated movement of small, noncommercial quantities of potatoes that are essentially for home use. It is believed that requiring such potatoes to meet the quality standards imposed under the marketing order is unnecessary. However, the current 20 cwt. amount is believed to be greater than that customarily purchased by individuals for their own use, and provides an avenue for substandard potatoes to enter the commercial fresh market. Reducing this minimum quantity exemption to 5 cwt. addresses the committee's concern that too many uninspected, low quality potatoes are ending up in fresh market channels. This exemption is more in line with exempt amounts provided under similar marketing orders covering other major potato producing areas. The purpose of this change is to lower the amount of low quality potatoes entering fresh market channels.

Other exemptions currently provided are unchanged. The grade, size, cleanness, maturity, and pack requirements are not applicable to shipments of potatoes for livestock feed, charity, seed, prepeeling, other processing, or export. Shipments to these outlets are also free from inspection requirements.

Section 8e of the Agricultural Marketing Agreement Act of 1937 requires that when certain domestically produced commodities, including Irish potatoes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements. Section 8e also provides that whenever two or more marketing orders regulating a commodity produced in different areas

of the United States are concurrently in effect, the Secretary shall determine which of the areas produces the commodity in most direct competition with the imported commodity. Imports then must meet the quality standards set for that particular area.

In the case of potatoes, the current import regulation (§ 980.1, 34 FR 8043) specifies that import requirements for long types be based on those in effect for potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon (M.O. 945) during each month of the marketing year and that for round white types, they be based on those in effect for potatoes grown in the Southeastern States from June 5 to July 31, and on those in effect for potatoes grown in Colorado Area 3 for the remainder of the year.

The quality standards imposed upon imports of red skinned, round type potatoes are based on that type grown in Washington during the months of July and August. During the remainder of the year, the import requirements are based upon those in effect for potatoes grown in Colorado Area 2.

During the July 1 through August 31 period, round red skinned potatoes which are at least one inch in diameter may be imported if they otherwise grade at least U.S. No. 1. No change is required in the language of § 980.1 or § 946.336(i) *Applicability to imports.*

Based on the above, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

After consideration of the information and recommendation submitted by the committee, and other available information, it is hereby found that the rule as hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 533, it is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** in that: (1) The 1988 harvest of Washington red potatoes will begin in early July, and this action should be effective July 1, and (2) a July 1 effective date will permit all shippers to take advantage of the relaxed size requirement and thus meet current consumer demand.

List of Subjects in 7 CFR Part 946

Marketing agreements and orders, Potatoes, Washington.

For the reasons set forth in the preamble, 7 CFR Part 946 is amended as follows:

PART 946—IRISH POTATOES GROWN IN WASHINGTON

1. The authority citation for 7 CFR Part 946 continues to read as follows:

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

2. Section 946.336 is amended by revising paragraphs (a)(2) (i) and (f) to read as follows.

Note: This regulation will appear in the Code of Federal Regulations.

§ 946.336 Handling regulation.

* * * * *

(a) * * *

(a)(2) *Size*—(i) *Round varieties*—1⅞ inches (47.6 mm) minimum diameter, except round red varieties may be 1 inch (25.4 mm) minimum diameter, if U.S. No. 1.

* * * * *

(f) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed 5 hundredweight of potatoes per day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment over 5 hundredweight of potatoes.

* * * * *

Dated: June 7, 1988.

Robert C. Keeney,

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

[FR Doc. 88–13077 Filed 6–9–88; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 88–057]

Importation of Sheep

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of sheep into the United States. This is necessary because there is considerable interest in importing large numbers of sheep into the United States from New Zealand. These anticipated importations of sheep have created a demand for quarantine services for sheep in excess of the services available at existing federal facilities.

First, we are adding requirements for approval of privately operated quarantine facilities for sheep imported into the United States from countries free of foot-and-mouth disease and rinderpest. These amendments are needed to ensure that private facilities meet minimum standards for disease control. Second, we indicate the ports of entry for sheep intended for quarantine at a privately operated quarantine facility. This amendment is needed to ensure that these sheep are entered into the United States only at ports at which the appropriate federal personnel are available to provide services. Third, we are adding health certification requirements and other requirements concerning quarantine upon arrival in the United States for sheep from New Zealand. These amendments are needed to ensure protection against the introduction into the United States of communicable livestock diseases.

EFFECTIVE DATE: July 11, 1988.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Senior Staff Veterinarian, Import-Export and Emergency Planning Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 806, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 92 (referred to below as the regulations), among other things, regulate the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various livestock diseases.

In the **Federal Register** of March 2, 1988 (53 FR 6656–6666, Docket No. 88–009), we proposed to amend the regulations by: (1) Adding requirements for approval of privately operated quarantine facilities for sheep imported into the United States from countries free of foot-and-mouth disease and rinderpest; (2) indicating the ports of entry for sheep intended for quarantine at a privately operated quarantine facility; and (3) adding health certification requirements and other requirements concerning quarantine upon arrival in the United States for sheep from New Zealand. A document correcting two typographical errors was published in the **Federal Register** on March 14, 1988 (53 FR 8301).

As announced in the proposal, two public hearings were held; one in Portland, Oregon, on March 15, 1988, and another in Washington, DC, on March 17, 1988. Also, in the proposal we invited written comments and indicated that consideration would be given to comments postmarked or received on or before April 1, 1988. Twenty-eight persons made statements at the first

hearing; ten, at the second. Several persons who spoke at one or both of the public hearings also submitted written comments. Eighty written comments were received. Persons submitting either oral or written comments included a feedlot and slaughterhouse operator, sheep producers, animal breeding and veterinary consultants, importers and exporters of agricultural commodities, members of Congress, APHIS employees, and representatives of the New Zealand government, wool growers' and other sheep producers' associations, animal protection organizations, state departments of agriculture, livestock exporters' associations, the national association representing the meat packing and processing industries, other trade associations, a public port and a state association of public ports, and other interested individuals.

All comments have been carefully considered, and those that raised objections or suggested changes are discussed in this supplementary information. Except as explained below, we have adopted the provisions of the proposed rule as a final rule for the reasons set forth in the proposal and in this document.

Standards for Privately Operated Quarantine Facilities for Sheep

Standards Not Limited to Portland Facility

Earlier this year one shipment of sheep from New Zealand was imported into the United States through a facility in Portland, Oregon, that was specifically approved for that importation. Several persons' comments are based on their familiarity with the Portland facility. We emphasize, however, that the standards for approval of a privately operated quarantine facility contained in the proposed rule were not designed solely for the Portland facility, but for any privately operated quarantine facility for sheep otherwise eligible for entry into the United States.

Opposition to Use of Privately Operated Facilities

Several commenters objected to allowing the importation of sheep into the United States through privately operated quarantine facilities. They maintained that we are setting precedents for private quarantine facilities far below present standards and that we should only allow use of government operated quarantine facilities to avoid compromising our import rules. No changes are made based on these comments. No evidence has been presented to us that establishes that implementing this final rule would present a significant risk of introducing communicable livestock diseases. Further, based on the rationale set forth in the proposal and in this document, it has been determined that sheep imported into the United States in compliance with the provisions of this final rule and the other applicable provisions of the regulations would not present a significant risk of introducing communicable livestock diseases.

Quarantine Facility Standards Not Limited to Sheep From New Zealand

New § 92.45 contains requirements for approval of privately operated quarantine facilities for sheep from all countries free of rinderpest and foot-and-mouth disease (FMD). (The importation of certain animals, including sheep, from countries not declared free of rinderpest and FMD is prohibited except for specially authorized importations through the Harry S Truman Animal Import Center, a maximum security quarantine facility in Fleming Key, Florida.) Commenters asserted that, since the standards for these facilities are written for the importation of sheep from any country free from FMD and rinderpest, they are geared for the worst health status of these animals that is likely to be encountered in the range of supplying countries. These commenters suggested that, considering the animal health status of sheep from New Zealand, the standards should be written specifically for that country in order to avoid penalizing its sheep exporters. No changes are made based on this comment. The standards contained in the final rule apply to privately operated quarantine facilities housing any sheep otherwise eligible for entry into the United States regardless of the country of origin. The health certification requirements would differ depending on the animal health status and the animal health programs in the country of origin. Once it is determined that the sheep meet the health certification requirements and are eligible for entry through a privately operated quarantine facility, the standards necessary to ensure that sheep in the facility do not present a risk of spreading communicable livestock diseases are, generally, uniform.

Cooperative Agreement: § 92.45(a)

We proposed that a privately operated quarantine facility for sheep must be operated in accordance with a cooperative agreement executed by the operator or other designated representative of the facility and by the Administrator. Commenters suggested that the regulations should require a cooperative agreement between the privately operated quarantine facility and the state in which it is located. They also suggested, generally, that state officials should assume authority and responsibility co-equal and parallel to that of federal officials in all aspects of the operation of privately operated quarantine facilities for sheep.

No changes are made based on these comments. The statutory mandate to establish and enforce regulations concerning the importation of certain animals, including sheep, is directed to the Secretary of Agriculture by federal animal quarantine laws. Cooperation with the States is critical to the control and eradication of animal diseases in the United States, and Animal and Plant Health Inspection Service (APHIS) employees work closely with State officials. However, the ultimate authority for regulating the importation of these animals rests with the federal government. This responsibility cannot be delegated to the States.

Availability of Personnel to Provide Services

The proposed rule (§ 92.45(b)) provided that approval of any quarantine facility shall be contingent upon a determination by the Administrator that adequate personnel are available to provide services required by the facility if approved. Commenters questioned whether adequate personnel will be available to properly monitor privately operated quarantine facilities if there are budget cuts and administrative cutbacks.

Our inclusion of this provision in the regulations acknowledges that there may be instances in which the Administrator will determine that adequate APHIS personnel are not available to provide services and will have to refuse approval of a facility for that reason. However, this should not preclude the Agency from having a mechanism in place to facilitate the importation of animals for those importations for which personnel are available.

Supervision of the Facility: § 92.45(b)(1)

We also proposed that the facility must be maintained under the supervision of a Veterinary Services veterinarian. One commenter requested that the complete range of the supervisory veterinarian's authority be specified in detail.

No changes are made based on this request. We think that this final rule adequately identifies the range of the

supervisory veterinarian's authority. As indicated in the proposed rule at 53 FR 6657, the requirement for supervision is intended to ensure that the facility operates in accordance with all applicable rules and regulations. It is the supervisory veterinarian's responsibility to exercise discretion and judgment within the framework of the regulations to ensure that the regulations are enforced. Of course, other supervisory personnel are available to advise on-line personnel as they implement their responsibilities.

Physical Plant Requirements: Location; § 92.45(b)(2)(i)

The proposed location requirements provided, in part, that the quarantine facility must be located within the immediate area of the port of entry to minimize the possibility of introduction and dissemination of diseases by the imported sheep while in transit from the point of entry to the quarantine facility.

One commenter suggested that we specify a distance that the facility must be located from domestic livestock in order to help ensure the biosecurity of the facility.

We have determined that the facility should be located at least ½ mile from any livestock to help ensure the biosecurity of the facility. Although it is impossible to specify an exact minimum distance beyond which a disease agent could not be spread, both science and experience indicate that a distance of at least ½ mile should be adequate to help preclude the transmission of any animal disease agent into or from the facility. We have added this ½ mile requirement to the final rule.

Several other commenters requested that the regulations be more specific on the distance allowed between the port of entry and the facility. No changes are made based on this comment. Under § 92.3(j) of the final rule, sheep may be entered into the United States through a number of ports. Some of these ports will be in large metropolitan areas with the nearest concentration of livestock many miles away. Others may be in towns with rural areas and concentrations of livestock within a very short distance of the port. Considering the diversity of the places in which persons may consider locating quarantine facilities, it is difficult to stipulate a maximum distance from the port of entry that would be "within the immediate area of the port of entry." We would risk requiring what may in some circumstances prove unjustified and burdensome for the importer or, in other circumstances, finding that our regulations would allow construction of a facility in a location that could prove inadequate to ensure prevention of disease spread. Prospective importers consult with APHIS officials in the initial stages of considering construction of a privately operated quarantine facility. Any importer will have an opportunity to check with agency officials to confirm that the location requirements would be met for any facility before that person has made any firm decisions about the location of the facility.

Physical Plant Requirements: Construction; § 92.45(b)(2)(ii)

—Walls, Floors, and Ceilings

Paragraph (A) of the proposed construction requirements provided that all solid walls, floors, and ceilings of the quarantine facility must be constructed of materials that are substantially impervious to moisture and that can withstand continued cleaning and disinfection. Some commenters suggested that the requirement should only apply to the floors and to the walls up to a height of five feet, based on the assertion that only those surfaces which would be cleaned and disinfected between shipments and with which the sheep have direct contact would need to be impervious to moisture.

In our judgment, all surfaces would need to be cleaned and disinfected between shipments to help ensure that disease agents would not be spread from one lot of sheep to another. The surfaces nearest the sheep would be most likely to be contaminated by disease agents, with the risk of surface contamination decreasing with distance from the animals. Of course, the floors and the lower part of the walls, with which the sheep, their excrement, or discharges have contact, would need more frequent or more intensive cleaning and disinfection. The upper part of the walls and the ceilings would require considerably less maintenance to keep them clean and disinfected. We have determined that surfaces that require less maintenance, such as ceilings and the upper part of the walls, would not need to be substantially impervious to moisture in order to be adequately cleaned and disinfected. We are changing the provision in the final rule with respect to ceilings and the upper part of the walls to require only that these surfaces must be able to withstand cleaning and disinfection between shipments.

—Doors and Other Openings

Paragraph (B) of the proposed construction requirements provided that the quarantine facility building must be constructed with each entryway equipped with a series of two solid doors, and with other openings covered with screening 16 mesh or finer, unless the Administrator specifically approves other types of doors and openings as adequate to prevent the entry of insects.

Some commenters suggested that there should be no requirement for screening unless the animals quarantined in the facility originate from a country affected with known vector-borne diseases exotic to the United States. We disagree. As suggested by one commenter, even if the animals quarantined in the facility originate from a country not known to be affected with vector-borne diseases exotic to the United States, screening would be needed to eliminate the risk of introduction of any vector-borne disease from outside the facility. The fact that the facility is screened would help establish that any vector-borne disease that might appear among the animals in quarantine would be of foreign, rather than domestic, origin.

Other commenters suggested that the 16 mesh or finer screening requirement is inappropriate, based on the assertion that it would create ventilation problems that may cause greater health problems for the sheep in quarantine than any potential problems that could be caused by insects. We reject the assertion that the screening requirement would cause ventilation problems and jeopardize the health of the sheep in quarantine. The final rule contains separate requirements to ensure adequate ventilation in a facility. Both the ventilation and screening requirements are needed to help ensure the biosecurity of the facility.

With respect to the requirement that each entryway be equipped with a series of two solid doors, one commenter suggested specific circumstances under which double doors would not be needed. It is not necessary to make any further change in the regulations to allow for approval of alternative types of doors and openings. As indicated above, the regulation as proposed provided that the Administrator may specifically approve the use of other types of doors and openings.

—"Lot"

The standards also contain provisions to ensure that disease agents would not be spread among different lots of sheep within the same facility. The term "lot" first appears in paragraph (C) of the construction requirements and is used several times in the standards. Several commenters requested clarification of this term.

The term "lot" was intended to mean a group of sheep that have been held on a premises with opportunity for commingling (physical contact with other sheep in the group or with their excrement or discharges) at any time since 30 days prior to export to the United States. We have included this clarification in the final rule. Generally, for large importations of a group of feeder lambs that have qualified for health certification during the same period in an isolation area, a facility will house a single lot of animals. However, the regulations are written to allow a facility to accommodate more than one lot of sheep at a time.

—Ventilation Systems

Paragraph (E) of the proposed construction requirements provided that the quarantine facility building must have a separate ventilation system for each lot of sheep that is housed in the facility. One commenter asserted that there would be no basis for this requirement as long as different shipments of sheep are separated by physical barriers within the quarantine facility.

No changes are made based on this comment. We included this requirement to help eliminate the possibility of spread of airborne diseases, such as ovine pneumonia, from one lot to another within the facility. If different lots of sheep share a common ventilation system, separation of these lots by physical barriers would not necessarily be adequate to prevent the spread of airborne diseases from one lot to another. We have clarified paragraph (E) in the final rule by stipulating that the quarantine facility building must have a separate, controlled, forced air ventilation system for each lot of sheep housed in the facility if the facility is approved to handle more than one lot of sheep. This is the type of ventilation system necessary to help ensure that disease agents would not be spread among different lots of sheep within the same facility.

—Separate Feed Storage Area

Paragraph (F) of the proposed construction requirements provided that the quarantine facility building must have a separate feed storage area. One commenter requested that this requirement be modified to allow for alternative means of receiving animal feed, such as delivery to the feeders by a system of chutes or daily truck deliveries to the facility, as long as the truck is sufficiently disinfected.

The requirement for a separate feed storage area was based on the premise that a supply of feed would be stored in the facility. However, if arrangements are made for an adequate supply of feed for the sheep without storing feed in the facility, a separate feed storage area would not be necessary.

We have amended the proposed rule to allow for alternate means of receiving feed in the facility. This revision includes a provision requiring that any vehicle entering the quarantine facility building to deliver feed be cleaned and disinfected under the supervision of a Veterinary Services inspector with a disinfectant authorized in § 71.10 of Title 9, Code of Federal Regulations, immediately before entering and before leaving the building. This is necessary to help prevent the spread of any disease agent into or from the quarantine facility building.

—Standards for the Necropsy Area

One commenter who is familiar with the facility in Portland, Oregon, asserted that the proposed minimum standards applicable to the necropsy room would be inadequate. He suggested additional requirements for more efficient ventilation to get rid of noxious odors, floor drains with a minimum diameter of four inches, and adequately sloped floors to speed up drainage.

No changes are made based on this comment. The final rule contains other provisions which, if properly enforced, will ensure the adequacy of the ventilation system and control of surface drainage. Specifically, paragraph (E) of the construction requirements requires that the quarantine facility building have a ventilation capacity sufficient to control moisture and odor at levels that are not injurious to the health of the sheep in quarantine. Also, paragraph (H) of the sanitation and security requirements (§ 92.45(b)(2)(iii)(H)) provides that arrangements shall exist for control of surface drainage into or from the facility in a manner adequate to prevent any significant risk of livestock diseases being spread into or from the facility. While floor drains are not specifically required, they are a standard feature for the control of surface drainage from buildings such as quarantine facilities. We are unable to substantiate that requiring that these drains have a certain minimum diameter would ensure control of surface drainage, since there are numerous other factors which also affect surface drainage, such as the water table, the water pressure, the angles at which the pipes are placed, the number and location of drain openings, and the frequency of cleaning manure and other excreta from the drains.

Physical Plant Requirements: Sanitation and Security; § 92.45(b)(2)(iii)

—Use of Disinfectants

Paragraph (E) of the proposed sanitation and security requirements provided that arrangements must exist for sufficient stocks of a disinfectant authorized in § 71.10 of Title 9, Code of Federal Regulations. One commenter objected to this requirement. Apparently the commenter read this requirement as binding the operator of the facility to use of a single disinfectant product. This is not the case. Section 71.10 allows the use of a number of disinfectants, all of which have bactericidal and virucidal properties.

—Disposal of Wastes

Paragraph (F) of the proposed sanitation and security requirements provided that arrangements must exist at the facility for disposal of wastes by incineration or a public sewer system that meets all applicable environmental quality control standards. Several commenters raised questions concerning the feasibility of disposal of large amounts of manure by incineration or disposal in a public sewer system. It was suggested that applicable environmental quality control standards might require burial of manure from the facility. We agree and have changed the rule to allow burial as an alternate means of disposal, if in conformance with all applicable environmental quality control standards. Also, we note that § 92.15 of the regulations prohibits the removal of any manure from the facility until the release from quarantine of the animals producing the manure.

—Disposal of Sheep Carcasses

Paragraph (G) of the proposed sanitation and security requirements provided that arrangements must exist for disposal of sheep carcasses by incineration or burial, in conformance with all applicable environmental quality control standards. Referring to the Portland facility, several commenters questioned whether provisions had been made for the disposal of an entire shipment of sheep in case that should become necessary. Other commenters suggested that our regulations should include specific requirements for disposal in the event of a disease outbreak in the facility.

There is a site available for disposal of an entire shipment of sheep from the Portland facility in the unlikely event that it becomes necessary. As indicated in the regulation, the disposal is to be in conformance with all applicable environmental quality control

standards. Those standards are not within APHIS authority to set. To ensure that our agency is not assenting to or facilitating action not in conformance with environmental quality control standards, we require that the operator of the facility provide a certification executed by an appropriate government official indicating compliance with the applicable laws for environmental protection (§ 92.45(b)(4)).

One commenter suggested that we could safely add an additional means of carcass disposal: refrigerated storage of any carcasses until the completion of the quarantine period, with disposal by rendering thereafter. We agree. Storing the sheep carcasses in the facility in a freezer at a temperature below 20 degrees Fahrenheit would be adequate to avoid any risk of disease spread from the carcasses. Scientific data indicate that grinding and then heating sheep carcasses for at least one hour at a temperature of not less than 265 degrees Fahrenheit would be adequate to destroy any animal disease organisms. We have added a provision to the final rule to allow rendering under these conditions.

Some commenters asked that we modify the carcass disposal requirement to allow refrigeration of any carcasses until the end of the quarantine, and then allow their disposal in any manner acceptable to local officials. These commenters asserted that there would be no basis for limiting the means of disposal of sheep that died or were destroyed during the quarantine period once the other sheep in the same shipment have cleared quarantine. No changes are made based on these comments. While we are confident that these carcasses would not present a risk of introducing exotic diseases into the United States, not limiting their disposal to the options discussed above could allow the spread of diseases such as salmonellosis. Decaying animal tissue would rapidly attract vermin and become a source of infectious bacteria. Incineration, burial, and rendering, under the conditions explained above, are the only viable options for carcass disposal that would not present disease risk. For that reason, we find it necessary to limit carcass disposal to these options.

Suggested Physical Plant Requirements

Commenters made several other suggestions to enhance the security and operation of a quarantine facility, such as a visual and electrical method to monitor and control entry doors, bonded security guards, fencing, and instruments to gauge the ammonia level in the facility. No changes are made based on these comments. While we do not dispute that certain additions could marginally enhance the security and operation of a facility, we have determined that compliance with the standards contained in this final rule will be adequate to ensure that sheep in the facility do not present a risk of spreading communicable livestock diseases.

Operating Procedures: § 92.45(b)(3)

—Showering Requirements

Several commenters objected to the proposed requirements that personnel shower when entering and leaving the sheep-holding area, and when leaving the necropsy area after conducting a necropsy. One commenter suggested that it should not be necessary to shower after conducting a necropsy unless the person is actually leaving the facility. No changes are made based on these comments. As suggested by one commenter, one reason for the requirement for showering upon entry is as an additional precaution against possible disease transfer from domestic livestock. We reaffirm the rationale stated in the proposal at 53 FR 6658 which indicated that the operating requirements are necessary to preclude transmission of any animal disease agent into the facility, from the facility, and from one lot of sheep to another within the facility. Further, the possibility of exposure to disease is greater in conducting a necropsy than with other sheep-handling activities. To help ensure that the person who conducted the necropsy would not present any risk of transferring any disease organisms to sheep in the facility, we find it necessary to require showering upon leaving the necropsy area after conducting a necropsy even if the person is not actually leaving the facility.

—Contact with Other Lots of Sheep

We also proposed to prohibit any person entering the sheep-holding area from having contact with other lots of sheep within the facility and with ruminants and swine outside the facility for a period of time determined by the supervising veterinarian as necessary to prevent a risk of spreading communicable livestock diseases. One commenter indicated that the specific period of time should be stated and have the force of law to help prevent disease from escaping from a quarantine facility. No changes are made based on this comment. This period of time would vary, depending on the health status of the sheep at the time the person was in the sheep-holding area. The supervisory veterinarian will be familiar with the health status of the sheep and will be able to determine the specific period of time on a case by case basis.

—Maintenance of Daily Log

As a part of the operating procedures, we proposed to make the operator of the quarantine facility responsible for maintaining a current daily log for each lot of sheep. Commenters suggested that maintaining the log should be the responsibility of the Veterinary Services veterinarian supervising the facility. We agree that the supervisory veterinarian could more appropriately assume responsibility for this log since that person will be supervising the activities that will be recorded in the log. The final rule includes this change. The operator of the facility will remain responsible for keeping the log for twelve months following the release of the sheep from quarantine and making it available to Veterinary Services personnel upon request.

Environmental Requirements: § 92.45(b)(4)

Several commenters contended that the responsibility for certifying compliance with all applicable laws for environmental protection should rest with the APHIS Administrator, not with an unspecified government official. No changes are made based on this comment. The responsibility for making judgments to determine compliance with the environmental protection laws associated with the operation of a quarantine facility is not within the APHIS Administrator's authority. That authority rests with other federal, state, and local officials.

Health Certification Requirements for Sheep from New Zealand

Types of Sheep Covered by the Health Certificate

One commenter apparently assumed that the health certification requirements were only for sheep that would be consigned from the port of entry directly to a slaughtering establishment. This is incorrect. The health certification requirements for sheep from New Zealand do not include provisions to allow consignment of the animals from the port of entry directly to a slaughtering establishment.

Other commenters argued that lambs for slaughter should be the only sheep allowed to be imported into the United States from New Zealand. They asserted, generally, that if these sheep were consigned directly to slaughter, they would not mix with the domestic flock, and would present less of a

disease risk. No changes are made based on this comment. APHIS imposes restrictions on the importation of animals into the United States only insofar as necessary to prevent the introduction of communicable animal diseases. There is no veterinary medical basis for limiting the sheep imported from New Zealand to lambs for slaughter. We are confident that any sheep from New Zealand brought into the United States under the regulations would not present a risk of introducing communicable animal diseases.

Responsibility for Issuing Health Certificates

Our proposal provided that the health certification could be made by any veterinarian authorized by the Government of New Zealand to do so. The proposal provided further that if the veterinarian issuing the certificate was not a salaried veterinarian of the national veterinary services of New Zealand, the certificate would have to be endorsed by a salaried veterinarian of New Zealand's national veterinary services. Several commenters suggested that the health certification should be the responsibility of APHIS officials. In our opinion, the suggested requirement is not warranted in order to ensure the validity of the health certification. For animals imported into the United States from countries free of foot-and-mouth disease and rinderpest, we depend on officials of the national veterinary services of the exporting countries for export health certifications. Our veterinary services officials furnish similar export health certifications for animals exported from the United States.

Scrapie

Proposed paragraph (a)(1) of the health certification requirements included a requirement to certify New Zealand's freedom from scrapie. Also, under proposed paragraph (a)(4), the health certificate must contain a statement that the sheep is not the first generation progeny of a sire or dam that has been affected with scrapie. Several commenters suggested that the requirement in proposed paragraph (a)(4) would be unnecessary, considering that New Zealand has never had an outbreak of scrapie and that it imposes stringent import requirements for sheep. We had included this requirement in the proposal as a precautionary measure to minimize the risk of any offspring offered for importation into the United States being affected with scrapie. However, upon further consideration of the facts mentioned by the commenters, plus our judgment that New Zealand has a surveillance system adequate to detect scrapie in the unlikely event that it should occur there, we concur with the commenters. We have deleted this provision from the final rule.

Spayed Females

Under the proposed health certification requirements, all spayed females would be exempt from the brucellosis testing requirements and spayed females intended for slaughter would be exempt from the tuberculosis testing requirements. In order for spayed females to qualify for these exemptions, we proposed to require certification that the spaying operation was conducted under the direct supervision of a salaried veterinarian of the national veterinary services of New Zealand.

One commenter suggested that other veterinarians specially authorized by the New Zealand veterinary services should be allowed to supervise and certify the operation. Other commenters maintained that the option of spaying females should not be allowed, based on their assertions of a probability of error and abuse and a subsequent disease risk. Still other commenters objected, asserting that the procedure is not normally done in New Zealand and that the cost would be prohibitive.

We are confident that, if the operation is conducted under the direct supervision of a salaried veterinarian of the national veterinary services of New Zealand, properly certified female sheep would not present a risk of introducing tuberculosis or brucellosis into the United States. Limiting supervision to these persons is necessary to help ensure compliance. We recognize that spaying females may not be a viable option for most people exporting sheep from New Zealand to the United States. However, the fact that many people may not find the option workable should not preclude us from leaving it as an alternative for those who may choose to use it. Therefore, the provision remains as proposed.

Inspection of the Sheep

Another proposed health certification requirement was for the sheep to be inspected by the certifying veterinarian and found free of evidence of communicable disease within seven days prior to movement to the isolation area.

Several commenters asked that "communicable disease" be defined or that we furnish a list of communicable diseases. We are using the term "communicable disease" as already defined in § 92.1: "[a]ny contagious, infectious, or communicable disease of domestic livestock, poultry or other animals."

Some commenters maintained that inspection by the certifying veterinarian of a large number of sheep within a 7-day period would be a physical impossibility. We did not intend to require that a single veterinarian inspect an inordinate number of sheep within a limited period. For large shipments, several veterinarians will be needed to assume this responsibility. Each veterinarian will certify those sheep that he or she has inspected.

Also, commenters requested clarification as to whether the isolation area could be a separate area on the farm or the pre-export feedlot assembly point. Under the final rule, either of these places could be an isolation area if it meets the requirements of the regulations. An isolation area is an area in which sheep intended for export are held and have no physical contact with other sheep except sheep scheduled for the same shipment.

Premises Free from Disease

As a precautionary measure, we also proposed provisions requiring a determination of freedom from certain diseases on any premises on which the sheep had been at any time during 12-month period to moving to the isolation area. A 12-month period of freedom from tuberculosis, bluetongue, and brucellosis was specified; a 6-month period was specified for freedom from other diseases of livestock.

One commenter questioned whether the reference to brucellosis meant only brucellosis variety ovis. That is what was intended since it is the variety of brucellosis to which sheep from New Zealand would most likely have been exposed. We have specified brucellosis variety ovis in the final rule.

Other commenters suggested that bluetongue be removed from the provsion, since that disease is not known to exist in New Zealand. Upon further consideration, we have determined that this requirement can be deleted without any increased disease risk. We believe that the testing and survey requirements for bluetongue in New Zealand will be adequate to ensure that sheep imported in compliance with these requirments would not present a risk of having the disease.

Another commenter questioned the rationale for the provision. He asserted that the time periods for freedom from the diseases are not technically justifiable. No further changes are made based on this comment. It is not possible to specify a definite minimum time after which certain diseases could be

guaranteed not to recur in a herd of sheep. We acknowledge that arguments could be made for greater or lesser time periods. A longer time was specified for freedom from tuberculosis and brucellosis in part because we have control and eradication programs for these diseases and, for that reason, want to take additional precautions to ensure that no sheep are convalescent carriers of these diseases.

Individual Identification

The proposed health certification requirements included a requirement for individual identification of the sheep using an eartag or bangle tag approved by the Administrator as being tamper-resistant. We further proposed to require that the eartag or bangle tag conform to an alpha-numeric system which uses the letters "NZ" followed by no more than 6 numbers and that it provide unique identification for each sheep.

Some commenters contended that the proposed individual identification requirement would be too stringent a requirement for feeder lambs. Their suggestions included: (1) A system of number ranges assigned to specific properties or origin to allow individual identification back to the farm of origin; (2) use of an ear mark system used by New Zealand sheep farms; or (3) a provision that each sheep must be identifiable to its farm of origin, without specifying the method. Other commenters argued that the proposed requirement was too lax. Some suggested requirements that an eartag be placed in each ear, not just one ear. Others suggested requiring a tattoo in addition to an eartag, and records tracking the exact location of the sheep after their release from quarantine.

No changes are made based on these comments. In order to ensure the validity of the certification for each sheep, to ensure that the sheep presented at the port of entry is in fact the animal referred to in the accompanying documents, and to avoid mistakes in recording laboratory results or possible diagnosis of disease, it is necessary to establish and maintain a single means of identifying sheep for the entire importation process. In our judgment, the requirements in the final rule are the minimum requirements that would be adequate to provide identification of individual sheep. The first three suggestions would not provide for identification of individual sheep. While we do not dispute that the other suggestions could decrease the possibility of error in tracing back sheep, we think the requirements in the final rule are sufficient.

Movement to the Isolation Area

One commenter objected to the proposed requirement that an official designated by the national veterinary services of New Zealand supervise the cleaning and disinfection of the means of conveyance in which sheep are moved to the isolation area. He indicated that the certification would be costly and difficult to achieve administratively because sheep for export will be obtained from a wide geographical area. The commenter suggested that a statement by the driver of the vehicle or certification by the trucking firm should suffice. No changes are made based on this comment. In our judgment limiting supervision to officials designated by the New Zealand government is warranted in order to help ensure compliance.

Isolation Period

Several commenters questioned the validity of the requirement for keeping the sheep in an isolation area for a period of at least 60 days immediately prior to export. They suggested, generally, that the period is not defensible from a biological standpoint. Also, they asserted that this requirement presents practical problems for the handling of animals intended for slaughter because, with a 60-day isolation period, they are likely to reach marketing weight prior to their release from quarantine in the United States. Another commenter pointed out the possibility of other countries imposing a similar requirement on livestock exported from the United States as his reason for objecting to the proposed requirement.

As indicated in the proposal at 53 FR 6661, a 60-day isolation period was proposed as a reasonable time for conducting all of the prescribed tests and treatments, and an adequate time within which a disease that a sheep might be harboring would manifest itself. With the changes in the proposed testing requirements, which are discussed below, in addition to the other requirements of the final rule, we have determined that 30 days will be an adequate isolation period for these purposes if all the applicable requirements are met within that period. If retesting for tuberculosis should be necessary, the period would be extended as explained below. Also, certification that a sheep has been free from evidence of communicable diseases and exposure to communicable diseases during the 60-day period immediatley prior to export is still required. As noted in the proposal, the importation of sheep which have been exposed to any disease within 60 days period to their exportation is prohibited by 21 U.S.C. 104.

Handling on an "All-in, All-out Basis"

We also proposed to require that all sheep entering the isolation area be handled on an "all-in, all-out" basis. Commenters requested that we reconsider this requirement. They explained that in setting up shipments it is customary to assemble 10–20% more animals than are ordered by the overseas buyer to allow for sorting and rejection for health status and for other reasons. It was suggested that the exporter should have the option of holding animals rejected for non-health reasons for subsequent shipments.

The requirement as written would not preclude holding animals rejected for non-health reasons for a later shipment. However, if these sheep are to be grouped with new sheep entering the isolation area for treatment and testing, then they would have to qualify for health certification as a part of the later group. The 30-day countdown for the isolation period would not begin until all sheep designated for qualification during that isolation period have entered the isolation area.

Tuberculosis Testing

One commenter questioned why a tuberculosis test is proposed for sheep from New Zealand, except for wethers and spayed females intended for slaughter, when the same test is not required for the importation into the United States of sheep from some other countries in which tuberculosis is known to exist. Determination of whether to require testing for a disease for animals imported into the United States is based on factors such as the nature of the disease and how it is spread, the prevalence of the disease in the country of origin, and the effectiveness of any eradication or control programs in the country of origin. Tuberculosis is prevalent in the opossum population in New Zealand. Transfer of the disease to other ruminants, such as sheep, is not uncommon. Efforts on the part of New Zealand have not yet been fully successful in eradicating tuberculosis from their livestock population. It is our veterinary medical judgment that the test and certification of freedom from the disease is necessary to ensure that these sheep would not present a risk of spreading the disease.

We proposed that all sheep in the isolation area, except both wethers and spayed females intended for slaughter, be tested for tuberculosis within 60 days

prior to export, with removal of any sheep that tested positive, and retesting of the remainder of the sheep in the isolation area after no less than 60 days. We reconsidered the timing of this testing as a part of examining the comments on the length of the isolation period. We have determined that the same intended effect, that is, certification of the sheep's freedom from tuberculosis, can be achieved by requiring the test for tuberculosis within 30 days prior to export. If any animals tested positive, the retest of the remainder of the sheep in the isolation area would still be required after a period of 60 days. This 60-day interval between tests is necessary to ensure the accuracy of the second test.

Brucellosis Testing

We proposed to require the standard direct complement fixation test for brucellosis for all sheep in the isolation area, except wethers and spayed females.

One commenter asserted that the enzyme-linked immunosorbent assay (ELISA) test is a more accurate test and suggested that it be required for brucellosis testing instead of the standard direct complement fixation test. We are currently evaluating the ELISA procedures. Upon completion of the evaluation we will propose whatever changes, if any, appear warranted in the brucellosis testing requirements.

Commenters also made several disparate suggestions on brucellosis testing. It was suggested that APHIS: (1) Test all sheep, based on the assertion that spayed females can transmit the disease; (2) test only breeding rams, based on the assertion that the disease is a disease of entire males only; and (3) in lieu of testing, allow certification that the flock of origin is free of brucellosis. Based on scientific data, we disagree with the assertions in suggestions 1 and 2. Brucellosis is an infection that manifests itself in the uro-genital tract. Only sexually intact animals are capable of spreading the disease. Although brucellosis is much more common among breeding rams, it has also been found in ewes and usually results in abortions. The regulations require testing only for sexually intact animals. These animals will probably be added to United States breeding flocks. The brucellosis testing is necessary to help eliminate the risk of any further spread of the disease among United States flocks.

Certification of Freedom from Akabane

We proposed testing all sheep in the isolation area for Akabane using the virus neutralization test.

—Additional Means of Certification

Some commenters contended that testing should not be required for Akabane, based on assertions that the disease is not known to exist in New Zealand; the only proven vector of the disease, a midge *(Culicoides brevitarsis),* does not exist in New Zealand; and statements that recent surveys of the cattle, sheep, and goat populations of New Zealand have proven negative for the disease. Some commenters contended that a statement that New Zealand is free of the disease would be sufficient certification. Other commenters suggested that, instead of testing, we should allow certification of flocks as being free of Akabane and other vector-borne diseases. Some of these commenters specifically suggested certification based on serological surveys of flocks of origin that could detect a 5 percent infection rate at a 95 percent confidence level.

Although Akabane may not be known to exist in New Zealand, it is our understanding that sheep, cattle and goats have been imported into New Zealand from a country in which Akabane is known to exist under conditions that would not be adequate to qualify them for entry into the United States and, in our judgment, may not have been adequate to preclude the introduction of that disease into New Zealand. Further, *Culicoides brevitarsis* is not the only proven vector of Akabane. According to the scientific literature, the mosquito is also a vector and it is known to exist in New Zealand. We accept that surveys of the ruminant populations of New Zealand have proven negative for Akabane. However, we question whether the number of animals sampled to date would be an adequate basis for removing all Akabane requirements from the regulations.

While not concurring fully with some of the commenters' statements, we have concluded, based in part on comments and a review of documentation from the New Zealand government, that the certification requirement discussed below would be adequate to ensure that sheep imported into the United States from New Zealand would not present a risk of introducing Akabane.

We are adding an option that may be used instead of certification based on tests for all sheep to be exported to the United States, namely, certification that sheep are from flocks determined to be free of Akabane. The determination that a flock of origin of sheep is free of Akabane must be based on negative results from a biometrically designed serological survey of the flock designed to detect a one percent infection rate at a 99 percent confidence level. Further, each survey must have been conducted within four months prior to movement of the sheep to the isolation area and must have been conducted by officials designated by the national veterinary services of New Zealand. The test administered must be the same as that required for testing during the isolation period.

To facilitate understanding of these requirements, we are adding definitions of "flock" and "flock of origin." A "flock" means all sheep under common ownership or supervision that are grouped on one or more parts of any single premises; or all sheep under common ownership or supervision on two or more premises which are geographically separated but on which animals from the different premises have been interchanged or had contact with animals from the other premises, or with their excrement or discharges. Also, a "flock of origin" means the flock of which the sheep have been a part for the 4 months immediately prior to movement to the isolation area or for their entire lives, whichever period of time is less.

Wethers and Spayed Females

One commenter suggested that wethers and spayed females should be exempt from any testing requirement for Akabane, based on the assertion that the real significance of Akabane is with breeding sheep, not with feeder lambs. We disagree. Akabane is a vector-borne disease. Whether or not an animal is sexually intact is not relevant to transmission of vector-borne diseases. To be eligible for importation into the United States, wethers and spayed females will have to be certified free of Akabane as a result of testing during the isolation period or as a result of a serological survey of the flock of origin, as explained above.

—Is One Virus Neutralization Test Adequate for Detecting Akabane?

Other commenters found the proposed testing requirements for Akabane inadequate. One maintained that one virus neutralization test is entirely inadequate; another suggested that the entire lot of sheep should be rejected if one sheep tests positive. No changes are made based on these comments. The regulations provide that, if any sheep test positive, they must be removed from

the isolation area, and after no less than 30 days, the remainder of the sheep in the isolation must be retested and found negative to the test. The virus neutralization test is recognized world-wide throughout the veterinary medical community as a standard means of diagnosing Akabane. It is impossible to achieve one hundred percent assurance of protection against the introduction into the United States of any exotic disease. However, as explained above in this section, "Certification of Freedom from Akabane," we believe the testing and survey requirements contained in the final rule are adequate to ensure protection against the introduction of Akabane into the United States.

Bluetongue and Epizootic Hemorrhagic Disease Testing

We proposed testing for bluetongue and epizootic hemorrhagic disease for all sheep in the isolation area only if any sheep in the isolation area had had an opportunity for exposure to either of these diseases within 12 months prior to entering the isolation area. The proposed regulation indicated that opportunity for exposure would exist if during that 12-month period, a sheep had been on a premises that, at any time during the time the sheep was on that premises or at any time during the 2-year period prior to the movement of the sheep to that premises, had contained sheep from a country not free of the disease. Several commenters objected to any certification requirements, based on their assertions that neither these diseases nor their vectors have been reported to exist in New Zealand.

We do not fully accept the commenters' rationale for having no requirement with respect to these diseases. Although bluetongue is not known to exist in New Zealand, it is our understanding that sheep have been imported into New Zealand from a country in which bluetongue is known to exist under conditions that would not be adequate to qualify them for entry into the United States. Further, although vectors may not be reported to exist, according to the scientific literature, both bluetongue and epizootic hemorrhagic disease may also be spread by infected semen. However, for the same reasons as discussed above for Akabane, we have concluded that, for those sheep for which individual testing was proposed, a certification requirement parallel to the Akabane requirement would be adequate to ensure freedom from these diseases.

Therefore, we are adding an option for certification that sheep are from flocks determined to be free of bluetongue and epizootic hemorrhagic disease. As with Akabane, the determinations that a flock of origin of sheep is free of bluetongue and epizootic hemorrhagic disease must be based on negative results from biometrically designed serological surveys of the flock designed to detect a one percent infection rate at a 99 percent confidence level. Further, each survey must have been conducted within four months prior to movement of the sheep to the isolation area and must have been conducted by officials designated by the national veterinary services of New Zealand. The tests administered to the selected sampling of sheep and the interpretation of the test results must be the same as those required for testing during the isolation period.

Other Suggestions Regarding Testing for Diseases and Parasites

Commenters also mentioned the possibility of sheep from New Zealand having diseases or parasites other than those for which certification is required. Some maintained that this possibility warrants prohibiting the entry of the animals. Others argued that we should add other testing or treatment requirements. Their concerns focused on: internal parasites, such as liverflukes, sheep tapeworms, and nematodes; leptospirosis; malignant catarrhal fever; biotypes associated with the shipping fever complex, and a variety of arboviruses other than those for which we require certification (Akabane, bluetongue, and epizootic hemorrhagic disease). We carefully considered each of these suggestions, and have concluded that no additional requirements are warranted based on these comments. It is not feasible to test or treat for every possible disease or parasite that sheep could have. Generally, we do not deem that the risk presented by sheep from New Zealand with respect to these diseases and parasites warrants any additional specific requirements at this time. There are ample requirements in the regulations for certifying the sheep, and the premises on which they have been for a period of time, free of communicable diseases and free from exposure to communicable diseases. There are also provisions allowing the Administrator to impose additional requirements for the sheep in quarantine in specific cases if needed to determine their health status, prevent spread of disease among sheep in quarantine, and prevent escape of animal disease agents from the facility. If the disease status of sheep in New Zealand changed so that sheep from that country would present a significant risk of introducing any exotic communicable disease into the United States livestock population, we would amend our regulations to ensure that the disease would not enter the United States.

Commenters suggested that we review and modify testing requirements as experience with several importations may indicate. One commenter was specifically referring to the requirements for arboviruses. We reiterate that the testing requirements contained in this final rule are those that have been determined to be necessary at this time to ensure protection against the introduction of communicable livestock diseases. Whenever we become aware that any requirements are no longer appropriate, we will initiate action to modify them as necessary.

Ectoparasites

The ectoparasite provisions in the proposed rule included a requirement for treatment of all sheep for ticks by being dipped once in a 0.125 per cent concentration of the pesticide coumaphos. We also proposed a specified lime sulfur dip treatment for psorergates mites.

Commenters requested that we allow certification that the sheep are from an area that is free of ticks in lieu of the dipping requirement. No changes are made based on this comment. We neither dispute nor affirm that some areas in New Zealand are free of some varieties of ticks. However, we deem the requirement for dipping the best way to ensure that the sheep are free from ectoparasites when shipped to the United States.

Commenters contended further that the choice of the pesticide should be the responsibility of the national veterinary services of New Zealand because those officials would be aware of better pesticides as they enter the market and could stipulate which pesticide to use. No changes are made based on this comment. We do depend on the national veterinary services of New Zealand to apply criteria and exercise discretion in determining whether health certification standards are met. However, it is an APHIS responsibility to set standards, and we think it would be an abrogation of that responsibility to delegate standard-setting, even for decisions such as which pesticides are efficacious for destroying ectoparasites.

Commenters also maintained that there are probably "better and more modern" pesticides than those specified in the proposal. They asserted further that the 0.125 concentration of coumaphos would be relatively high for the treatment of lambs. We do not dispute that there are other pesticides

that would serve the same purpose. However, the efficacy of both the lime sulfur dip and coumaphos for these treatments is well-documented. In addition, they are both readily available and relatively inexpensive. Further, according to the manufacturer's instructions, the .125 concentration of coumaphos is the minimum concentration effective for dipping sheep for ticks. If we are presented with documentation suggesting that another pesticide would be preferable, we will evaluate the information and propose any changes that might be indicated.

The proposed ectoparasite provisions also included a requirement that the certifying veterinarian inspect the sheep and find them free of ectoparasites within 72 hours prior to their being loaded on the means of conveyance for transport to the United States. Commenters pointed out that this would be very difficult to achieve, due to the large numbers of sheep. We have determined that sheep that have been shorn within 60 days prior to the treatment for ticks would not need to be inspected to determine their freedom from ectoparasites. Wool on a sheep interferes with the effectiveness of the ectoparasite treatment. Although it is generally recognized that treatments for ectoparasites are not 100 percent effective, the sheep that have been shorn as specified would be much less likely to have ectoparasites after their treatment. In our judgment, these sheep could be safely imported into the United States without further inspection for ectoparasites. Those sheep that have not been shorn as specified would still need to be inspected to ensure their freedom from ectoparasites.

Health Certification: Shearing

Other commenters suggested that the health certification provisions should include a requirement that the sheep be shorn within two weeks prior to export. They asserted that shearing would prevent the wool from qualifying for incentive payments under the Wool Act of 1954 and would reduce health risks. The issue of determining whether wool qualifies for incentive payments is not within APHIS authority. Nor do we consider it necessary to require shearing in order to reduce health risks. As explained above, sheep that have been shorn as specified are exempted from the inspection requirements in the ectoparasite provisions.

Quarantine upon Arrival

—Length of Quarantine

The proposed regulations also included a requirement for quarantine of the sheep upon arrival in the United States for a period of not less than 30 days. One commenter said that the quarantine period should be increased to 45 days. He did not give the basis for his suggestion. Several other commenters objected to the not-less-than-30-day requirement based, generally, on what they perceived as its inconsistency with the requirement in § 92.11 for a quarantine period of not less than 15 days for swine and ruminants other than cattle imported from any part of the world except Canada. Some of these commenters suggested that the requirement specify not less than 15 days.

No changes are made based on these comments. Several commenters apparently read the not-less-than-15-day quarantine requirement as requiring only a 15-day quarantine. It has been our experience that sheep imported into the United States have been quarantined for at least 30 days in order to confirm their freedom from communicable diseases. Quarantine upon arrival is important because shipment causes stress for the sheep. Animals under stress are more likely to manifest signs of disease. The "not less than 30 day" requirement more accurately reflects the time needed for testing and confirmation of freedom from disease.

—Testing During Quarantine

The proposed provisions concerning quarantine upon arrival also provided for testing of all sheep in quarantine for brucellosis variety ovis. Also, the proposed provisions provided that the Administrator might find it necessary, in order to determine that the animals are free from communicable disease, to require other tests duplicative of the pre-embarkation tests or additional tests. The provision required that the sheep test negative to these tests also.

Several commenters requested clarification as to whether the tests duplicative of the pre-embarkation tests are mandatory or discretionary. The only test that is mandated during quarantine in the United States is the test for brucellosis variety ovis. The other tests are discretionary, based upon the Administrator's determination that they are necessary to determine that the animals are indeed free from communicable diseases.

Other commenters objected to the brucellosis testing requirements and reiterated the objections they voiced to the pre-embarkation testing requirements. No changes are made based on these comments. Considering the nature of the disease and the efforts that are being expended to eradicate brucellosis in this country, we confirm that the brucellosis testing requirements are necessary to confirm that the sheep have remained negative to the disease.

Some commenters maintained that we should also require retesting of the sheep for bluetongue and Akabane during their quarantine, based on the assertion that the animals could be exposed and contract the disease while en route from New Zealand to the quarantine facility in the United States. We are not adding specific requirements for these tests. The animals will have been certified and found free of the diseases prior to leaving New Zealand. These are vector-borne diseases. We think the probability of the animals being infected en route is too remote to justify a specific requirement for testing for these diseases during quarantine. The final rule contains provisions allowing testing for these diseases, or any other disease, if the Administrator determines that the testing is necessary.

Antibiotics

Several commenters suggested that we add a prohibition against the use of antibiotics for the sheep during their quarantine. They asserted that antibiotics could mask symptoms of any number of serious communicable diseases. No changes are made based on this comment. Apparently these commenters assumed that antibiotics would be given prior to any attempt to make a diagnosis. This is not the case. If a sheep shows signs of illness during quarantine, the supervisory veterinarian will take action to make a diagnosis prior to allowing any treatment. After a diagnosis has been made, if it is determined that treatment with antibiotics would be beneficial, the supervisory veterinarian would be exercising sound veterinary medical judgment by allowing the treatment. Antibiotics affect bacteria, but do not affect viruses and therefore, would not mask viral infections, such as bluetongue or Akabane.

Humane Standards

Two organizations recommended that APHIS establish humane standards for the sea transport of sheep, and include these standards in this rulemaking. These organizations also recommended establishment of a certification program to ensure enforcement of the suggested standards. They further requested that our regulation authorize at least one competent observer from an animal protection organization to be present at any given time during the unloading of the ship and transport of the animals to the quarantine facility to monitor the

handling and physical condition of the arriving animals.

No changes are made based on these comments. Although APHIS is concerned about the humane treatment of sheep while in transit to the United States, the establishment of regulations concerning this aspect of the import operation is not within our statutory mandate.

Executive Order 12291 and Regulatory Flexibility Act

—Response to Comments

A number of commenters noted their concurrence with the Executive Order 12291 and Regulatory Flexibility Act Statement in the proposed rule and affirmed or elaborated on points contained in that statement. Several other commenters indicated that they disagreed with our analysis, but they did not submit any data to support their assertions.

Some commenters disagreed with our estimate that approximately 162,000 sheep that might not otherwise be imported into the United States will be imported annually under this final rule. Our estimate was based on the quota set by New Zealand for sheep allowed to be exported from New Zealand to the United States annually. Commenters submitted projections of effects on the economy based on an estimate of 270,000 to 360,000 sheep. These commenters indicated that their estimated range was that of the only importer who has requested a permit to import large numbers of sheep. However, according to that importer's statement at the public hearing in Portland, Oregon, his program calls for the annual import of approximately 160,000 lambs from New Zealand through the port of Portland. Considering the logistics of any importation, we deem this an outside estimate for that importer. We realize that other people may also import sheep into the United States through privately operated quarantine facilities. However, to date no one has indicated any interest in doing that.

Although we readily acknowledge that any estimate is imperfect, with the information available to us at this time, it remains our best estimate that approximately 162,000 sheep that might not otherwise be imported into the United States will be imported annually under this final rule. If sheep importations should become 324,000 head annually, as suggested by the commenters, then the amount of lamb available in the United States would increase 6 percent with a 2.4 percent estimated decrease in price (1.8 cents per pound), based on a lamb price of $0.75 per pound. This is much less than the current year-to-year fluctuation in United States lamb production and price.

Commenters differed as to whether a uniform supply of lamb is currently available. Some contended that sheep imported under this final rule would provide a constant supply of fresh lamb in the markets, thereby creating more lamb consumption, improving demand for lamb products and resulting in consistent prices for domestic growers as well as importers. Others maintained that current production does not leave seasonal gaps, and that United States lamb producers are in the process of increasing production sufficiently to meet any foreseeable demand in domestic markets. According to United States Department of Agriculture reports, the percent of the annual lamb slaughter that is processed each quarter of a year shows fluctuations from 23.4 percent to 27.1 percent for the 4-year period from 1984 through 1987. Additional regular supplies of lamb, whether from domestic production or regular importations, would have little, if any, effect on seasonal variations. Further, as indicated above, the impact on lamb prices of a 6 percent increase in the amount of lamb available in the United States (the largest projection suggested by commenters), would be much less than the current year-to-year fluctuation.

Several commenters who indicated that they raise sheep asserted that they oppose allowing the importation of sheep through privately operated quarantine facilities because they do not want any additional economic competition. This is not a valid reason to preclude the entry of these animals. The regulations in 9 CFR Part 92 are established pursuant to animal quarantine and related laws which generally provide authority to take action to prevent the introduction or dissemination of certain diseases. These statutory provisions do not provide authority for establishing prohibitions based merely on factors relating to economic competition. In addition, although the Department considers economic issues in accordance with Executive Order 12291 and the Regulatory Flexibility Act, these economic issues must be considered within the framework of animal quarantine and related laws.

Some commenters cautioned the agency to avoid putting constraints on the importation of sheep to protect local markets, thereby erecting a non-tariff trade barrier and inviting reciprocal action by other countries. No changes are made based on this comment. The requirements contained in the final rule are those requirements that have been determined to be necessary to protect against the introduction into the United States of communicable animal diseases.

Executive Order 12291 and Regulatory Flexibility Act Statement

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Before the effective date of this rule, the expected domestic lamb slaughter for calendar year 1988 was approximately 620,100,000 pounds, live weight. With the adoption of this rule, we anticipate that approximately 162,000 sheep that might not otherwise be imported into the United States may be imported annually. It is expected that all of these animals will be slaughtered within two to three months after importation. This will add approximately three percent to the amount of lamb available for marketing in the United States, and could decrease slightly, probably no more than one cent per pound, the price paid to the producer for lamb. According to the 1982 Census of Agriculture, there are 99,396 farms producing lambs, sheep, and wool. Using sales per farm of under $100,000 from lambs, sheep, and wool as the definition of a small sheep business, there are 88,237 such businesses in the United States, according to the 1982 Census of Agriculture. Of these 49,052 farms had sales of lambs, sheep, and wool valued at less than $10,000 per year. It should be noted that raising sheep for slaughter is not the sole source of business income for most United States sheep producers.

We anticipate that the importation of sheep through privately operated quarantine facilities will have a negligible effect on the wool supply in the United States. This is because the sheep will have been shorn shortly before entering the United States. The

importation will generate additional activity for a few other businesses: the importers, the feedlot operators that feed the lambs, the feed mills that supply the feed, the meat packing plants that slaughter the lambs, and the wholesale and retail distributors of the finished product.

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

Miscellaneous

We have also made nonsubstantive changes to avoid ambiguity and present the provisions of this rule more clearly.

Paperwork Reduction Act

Information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 0579–0040.

Executive Order 12372

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

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, 9 CFR Part 92 is amended as follows:

1. The authority citation for Part 92 continues to read as set forth below:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.1 [Amended]

2. Section 92.1 is amended by adding, in alphabetical order, the following:

§ 92.1 Definitions.

* * * * *

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any other employee of the Animal and Plant Health Inspection Service, United States Department of Agriculture, to whom authority has been or may be delegated to act in the Administrator's stead.

* * * * *

§ 92.3 [Amended]

3. In § 92.3, a new paragraph (j) is added to read as follows:

§ 92.3 Ports designated for the importation of animals and birds.

* * * * *

(j) *Ports and privately operated quarantine facilities for sheep.* Sheep may be entered into the United States at any port specified in paragraph (a) of this section, or at any other port designated as an international port or airport by the U.S. Customs Service and quarantined at privately operated quarantine facilities provided the applicable provisions of §§ 92.2, 92.4(a), 92.7, 92.8, 92.44, and 92.45 are met.

§ 92.5 [Amended]

4. In paragraph (a)(1) of § 92.5, "and 92.40" is changed to "92.40, and 92.44."

5. In paragraph (a)(2) of § 92.5, "and 92.36," is changed to "92.36, and 92.44,"

§ 92.11 [Amended]

6. In the first sentence of paragraph (b)(1) of § 92.11, "other than sheep from New Zealand and" is inserted after "Swine and ruminants".

7. In paragraph (b)(2) of § 92.11, the following sentence is added at the end of the paragraph:

§ 92.11 Quarantine requirements.

* * * * *

(b) * * *

(2) * * * Sheep imported from New Zealand shall be subject to § 92.44 of this part.

* * * * *

§ 92.12 [Amended]

8. In § 92.12, the heading for the section and the heading for paragraph (a) are revised to read as follows:

§ 92.12 Animal quarantine facilities.

(a) *Privately operated quarantine facilities.*

9. In § 92.12, paragraph (a) is amended by removing the words "non-Governmental quarantine facility" and adding "privately operated quarantine facility" in their place.

10. In the second, fourth, sixth, eighth, and eleventh sentences of paragraph (a) of § 92.12, the words "Deputy Administrator, Veterinary Services," are removed and "Administrator" is added in their place.

11. In § 92.12, the heading for paragraph (b) is amended to read:

(b) *Quarantine facilities maintained by Veterinary Services.*

12. In § 92.12, the third sentence in paragraph (b) is amended by replacing "Veterinarian Services" with "Veterinary Services".

13. New §§ 92.44 and 92.45 are added to read as follows:

§ 92.44 Sheep from New Zealand.

No sheep from New Zealand shall be imported or entered into the United States unless in accordance with paragraphs (a) and (b) of this section.

(a) *Health certification requirements.* No sheep shall be imported into the United States from New Zealand unless accompanied by a health certificate. The certificate shall be either signed by a salaried veterinarian of the national veterinary services of New Zealand or signed by a veterinarian authorized by the national veterinary services of New Zealand and endorsed by a salaried veterinarian of the national veterinary services of New Zealand (the endorsement represents that the veterinarian signing the certificate was authorized to do so). The certificate shall certify that:

(1) New Zealand is free from rinderpest, foot-and-mouth disease, contagious pleuropneumonia, surra, and scrapie.

(2) The sheep was born in New Zealand and has never been in any country other than New Zealand.

(3) The sheep is not the first generation progency of a sire or dam imported into New Zealand from a country specified in § 94.1 of this chapter as having rinderpest or foot-and-mouth disease.

(4) If the sheep is a spayed female, the spaying operation was conducted under the direct supervision of a salaried veterinarian of the national veterinary services of New Zealand (for the purposes of this section, "direct" supervision means that the supervising person must be physically present during the operation).

(5) The sheep was inspected by the certifying veterinarian and found free of evidence of communicable disease within seven days prior to movement to an isolation area (for the purposes of this section an "isolation area" shall mean an area in which sheep intended for export are held and have no physical contact with other sheep except sheep scheduled for the same shipment).

(6) Any premises on which the sheep had been at any time during the 12-month period prior to moving to the isolation area, had been free of any

evidence of tuberculosis and brucellosis variety ovis for the 12-month period immediately preceding the date of movement of the sheep from that premises, and had been free of outbreaks of any other communicable disease of livestock for the 6-month period immediately preceding the date of movement of the sheep from the premises. This certification shall be made insofar as can be determined by the certifying veterinarian, based on information available from the owners of the premises, the owners of the sheep, and other sources.

(7) Prior to moving the sheep to the isolation area, each sheep was individually identified using an identification eartag or bangle tag meeting the following specifications:

(i) The eartag or bangle tag is approved by the Administrator as being tamper-resistant; and

(ii) The eartag or bangle tag conforms to an alpha-numeric system which uses the letters "NZ" followed by no more than 6 numbers and provides unique identification for each sheep.

(8) If moved to the isolation area from another premises, (i) the sheep was moved in a means of conveyance which, immediately prior to loading the animal, was cleaned and disinfected with a disinfectant specified in § 71.10 of this chapter under the direct supervision of an official designated by the national veterinary services of New Zealand; and

(ii) The sheep had no physical contact with other animals (except sheep scheduled for the same shipment) during transit to the isolation area.

(9) The sheep was kept in the isolation area for a period of at lest 30 days immediately prior to export, under the supervision of a full-time salaried veterinarian of the national veterinary services of New Zealand. The 30 day period began when all sheep designated for qualification during a single isolation period had entered the isolation area.

(10) All sheep which entered the isolation area were handled on an "all-in, all-out" basis, except for sheep removed in accordance with this section.

(11) *Tuberculosis testing.* All sheep in the isolation area, except wethers and spayed females intended for slaughter, were subjected to an intradermal tuberculin test utilizing mammilian Purified Protein Derivative (PPD) tuberculin and tested negative within 30 days prior to export. If any sheep tested positive, they were removed from the isolation area, slaughtered, examined, and found to have no tubercular lesions, and after no less than 60 days, the remainder of the sheep in the isolation area were retested and found negative to such test. Negative test results mean that the supervisory veterinarian detected no response using both visual examination and manual palpation techniques at the site of the injection 72 hours after the injection.

(12) *Brucellosis testing.* All sheep in the isolation area, except wethers and spayed females, were subjected to the standard direct complement-fixation test for brucellosis variety ovis and tested negative within 30 days prior to export. Negative test results mean less than fifty percent fixation (2 plus) in a serum dilution of 1:10. If any sheep tested positive, they were removed form the isolation area, and after no less than 30 days, the remainder of the sheep in the isolation area were retested and found negative to the test.[1]

(13) *Certification of freedom from Akabane, bluetongue, and epizootic hemorrhagic disease.*

(i) *Akabane.* All sheep in the isolation area either were from flocks of origin determined to be free of Akabane as provided in paragraph (a)(13)(iv) of this section or were tested for Akabane as provided in this paragraph. If the determination of freedom from Akabane was made by testing, all sheep in the isolation area tested negative to the virus neutralization test for Akabane at a serum dilution of 1:4 within 30 days prior to export. If any sheep tested positive, they were removed from the isolation area, and after no less than 30 days, the remainder of the sheep in the isolation area were retested and found negative to the test.[1]

(ii) *Bluetongue.* All sheep in the isolation area were required to be certified as free from bluetongue only if, during the 12-month period prior to movement to the isolation area, any sheep in the isolation area had been on a premises that, at any time during the time the sheep was on that premises or at any time during the 2-year period prior to the movement of such sheep to that premises, had contained sheep from a country not free of bluetongue. Certification, if required, was made either by determining that all sheep in the isolation area were from flocks of origin determined to be free of bluetongue as provided in paragraph (a)(13)(iv) of this section or by testing all sheep in the isolation area for bluetongue as provided in this paragraph. If the determination of freedom from bluetongue was made by testing all sheep in the isolation area, all sheep tested negative to the agar gel immunodiffusion (AGID) test for bluetongue within 30 days prior to export. If any sheep tested positive, they were removed from the isolation area and after no less than 30 days, the remainder of the sheep in the isolation area were retested and found negative to the test.[1]

(iii) *Epizootic hemorrhagic disease.* All sheep in the isolation area were required to be certified as free from epizootic hemorrhagic disease only if, during the 12-month period prior to movement to the isolation area, any sheep in the isolation area had been on a premises that, at any time during the time the sheep was on that premises or at any time during the 2-year period prior to the movement of such sheep to that premises, had contained sheep from a country not free of epizootic hemorrhagic disease. Certification, if required, was made either by determining that all sheep in the isolation area were from flocks of origin determined to be free of epizootic hemorrhagic disease as provided in paragraph (a)(13)(iv) of this section or by testing all sheep in the isolation area for epizootic hemorrhagic disease as provided in this paragraph. If the determination of freedom from epizootic hemorrhagic disease was made by testing all sheep in the isolation area, all the sheep tested negative to the agar gel immunodifussion (AGID) test for epizootic hemorrhagic disease within 30 days prior to export. If any sheep tested positive, they were removed from the isolation area and after no less than 30 days, the remainder of the sheep in the isolation area were retested and found negative to the test.[1]

(iv) *Serological surveys of flocks of origin.* The determination that a flock of origin of sheep is free of Akabane, bluetongue, or epizootic hemorrhagic disease shall be based on negative results from a biometrically designed serological survey of the flock for the specific disease. The survey must be designed to detect a one percent infection rate at a 99 percent confidence level. Each survey must have been conducted within four months prior to movement of the sheep to the isolation area and must have been conducted by officials designated by the national veterinary services of New Zealand. The tests administered to the sample of sheep and the interpretation of test results must be the same as those required for testing during the isolation period. (For the purposes of this section, a "flock" shall mean all sheep under common ownership or supervision that are grouped on one or more parts of any single premises; or all sheep under common ownership or supervision on

[1] The importation of sheep which have been exposed to any disease within 60 days prior to their exportation is prohibited by 21 U.S.C. 104.

two or more premises which are geographically separated but on which animals from the different premises have been interchanged or had contact with animals from the other premises, or with their excrement or discharges. Also, for the purposes of this section, a "flock of origin" shall mean the flock of which a sheep has been a part for the 4 months immediately prior to movement to the isolation area or for its entire life, whichever period of time is less.)

(14) *Ectoparasites.* (i) Within 10 days prior to export, all sheep were treated for ticks by being dipped once in a 0.125 per cent concentration of the pesticide coumaphos.

(ii) Within 10 days prior to export, but at least 3 days after the treatment referred to in paragraph (a)(14)(i) of this section, all sheep were treated once for psorergates mites by being dipped in a 2 per cent lime sulfur dip. To ensure efficacy of the treatment, either a wetting agent shall be added to the dip prior to dipping the sheep, or the dip shall be heated to maintain a temperature of 95–105 degrees F. throughout the dipping process.

(iii) The name of the pesticide, the concentration used to treat the sheep, and the dates of treatment.

(iv) Any sheep not shorn within 60 days prior to the treatment for ticks referred to in paragraph (a)(14)(i) of this section was inspected by the veterinarian signing the health certificate and was found free of any ectoparasites wihin 72 hours prior to being loaded on the means of conveyance which transported the sheep to the United States.

(15) The sheep has remained free from evidence of communicable diseases and exposure to communicable diseases during the 60-day period immediately prior to export.

(16) *Movement from the isolation area to the port of embarkation.* The sheep was moved from the isolation area to the port of embarkation in a means of conveyance which, immediately prior to loading the sheep, was cleaned and disinfected under the direct supervision of an official designated by the national veterinary services of New Zealand with a disinfectant specified in § 71.10 of this chapter. Such movement was by the most expeditious route that would prevent possible exposure to disease in transit. From the time of cleaning and disinfecting the means of conveyance through the unloading of the sheep for export to the United States, there have been no other sheep aboard the means of conveyance.

(b) *Quarantine upon arrival.* (1) As a condition of entry into the United States, upon arrival at the port of entry, sheep from New Zealand shall be quarantined for not less than 30 days, counting from the date of entry into the approved quarantine facility.

(2) In order to qualify for release from quarantine, the sheep shall be tested as follows:

(i) All sheep, except wethers and spayed females, shall be subjected twice, with an interval of at least 15 days between tests, to the standard direct complement-fixation test for brucellosis variety ovis and receive negative test results (less than fifty percent fixation, 2 plus) in a serum dilution of 1:10; and

(ii) All sheep shall test negative to any other test that may be determined necessary by the Administrator to determine their freedom from communicable diseases. These tests may be duplicative of the tests required under paragraph (a) of this section or may be additional tests.

(c) *Sheep refused entry.* A sheep imported or offered for entry into the United States that is not accompanied by a health certificate as required by paragraph (a) of this section or that is found upon inspection at the port of entry to be affected with a communicable disease or to have been exposed to a communicable disease, shall be refused entry and shall be handled thereafter in accordance with 21 U.S.C. 103 or quarantined, or otherwise disposed of as the Administrator may direct.

(Approved by the Office of Management and Budget under control number 0579–0040)

§ 92.45 Standards for approval of privately operated quarantine facilities for sheep, and handling procedures for the importation of sheep.

(a) *Cooperative agreement.* No facility shall operate as a privately operated quaratine facility for sheep unless it is operated in accordance with a cooperative agreement excuted by the operator or other designated representative of the facility and by the Administrator, and unless such cooperative agreement includes all the requirements of this section and includes a requirement that the cost of the facility and all costs associated with the maintenance and operation of the facility shall be borne by the operator in accordance with the provisions of § 92–12 of this part.

(b) *Approval of facilities.* To qualify for designation as an approved privately operated quarantine facility [1] and to retain such approval, the facility and its maintenance and operation must meet the minimum requirements of this section. Approval of any quarantine facility shall be contingent upon a determination by the Administrator that adequate personnel are available to provide services required by the facility if approved. The cost of the facility and all costs associated with the maintenance and operation of the facility shall be borne by the operator in accordance with the provisions of § 92.12 of this part.

(1) *Supervision of the facility.* The facility shall be maintained under the supervision of a Veterinary Service veterinarian.

(2) *Physical plant requirements.* The facility shall comply with the following requirements:

(i) *Location.* The quarantine facility shall:

(A) Be located at one of the ports listed in § 92.3(j) of this part;

(B) Be located within the immediate area of the port of entry to minimize the possibility of introduction and dissemination of diseases by the imported sheep while in transit from the point of entry to the quarantine facility; and

(C) Be located at least one-half mile from any livestock.

(ii) *Construction.* The quarantine facility building shall:

(A) Be constructed so that the surfaces of the floors and the surfaces of that part of the walls with which the sheep, their excrement, or discharges have contact are constructed of materials that are substantially impervious to moisture and that can withstand continued cleaning and disinfection;

(B) Be constructed so that the ceiling and that part of the walls with which the sheep, their excrement, or discharges do not have contact can withstand cleaning and disinfection between shipments;

(C) Be constructed with each entry way equipped with a series of two solid doors, and with other openings covered with screening 16 mesh or finer; unless the Administrator specifically approves other types of doors and openings as adequate to prevent the entry of insects;

(D) Be constructed so that different lots of sheep in the facility at the same time are separated by physical barriers in such a manner that sheep in a given lot do not have physical contact with sheep in another lot, or with their excrement, or discharges (for the purposes of this section a "lot" shall mean a group of sheep that have been held on a premises with opportunity for commingling (physical contact with

[1] Information as to the identity of such facilities may be obtained from the Administrator, Animal and Plant Health Inspection Service, U.S. Departent of Agriculture, Washington, DC 20250.

other sheep in the group or with their excrement of discharges) at any time since 30 days prior to export to the United States);

(E) Have a ventilation capacity sufficient to control moisture and odor at levels that are not injurious to the health of the sheep in quarantine;

(F) Have a separate, controlled, forced air ventilation system for each lot of sheep that is housed in the facility if the facility is approved to handle more than one lot of sheep at a time;

(G) Have a separate feed storage area, if feed is stored in the facility;

(H) Have office space for recordkeeping available for use by Veterinary Services personnel;

(I) Have a necropsy area with facilities adequate for specimen preparation and equipped with a refrigerator-freezer for storing specimens for laboratory examination;

(J) Have a separate area for washing clothes and equipment used in the facility;

(K) Have a shower at the entrance to the sheep-holding area and the necropsy area and a clothes storage and change area at each end of the shower area; and

(L) Have a storage area for equipment necessary for quarantine operations.

(iii) *Sanitation and security.* Arrangements shall exist for:

(A) Equipment and supplies necessary to maintain the facility in a clean and sanitary condition, including insect and pest control equipment and supplies;

(B) Separately maintained equipment and supplies for each lot of animals;

(C) A supply of potable water adequate to meet all watering and cleaning needs;

(D) Power cleaning and disinfecting equipment with adequate capacity to disinfect the facility and equipment;

(E) Sufficient stocks of a disinfectant authorized in § 71.10 of this chapter;

(F) Disposal of wastes by burial, incineration or in a public sewer system in compliance with all applicable environmental quality control standards;

(G) Upon the death or destruction of any sheep, disposal of the carcass, in conformance with all applicable environmental quality control standards, by incineration, by burial, or by storing the sheep carcasses in the facility in a freezer at a temperature below 20 degrees Fahrenheit and upon release of the lot of sheep from the facility, disposing of any carcasses by grinding and then heating them for at least one hour at a temperature of not less than 265 degrees Fahrenheit;

(H) Control of surface drainage into or from the facility in a manner adequate to prevent any significant risk of livestock diseases being spread into or from the facility;

(I) Protective clothing and footwear adequate in quantity to ensure that workers at the facility have clean clothing and footwear at the start of each workday and at any time such articles become soiled or contaminated;

(J) A receptacle for soiled and contaminated clothing in the clothes change area located nearest the entrance to the sheep-holding area;

(K) A security system which prevents persons not authorized entry to the facility and animals outside the facility from having contact with sheep in quarantine. Such a system shall include a daily log to record the entry and exit of all persons entering the facility; and

(L) Feed and bedding for sheep in quarantine must originate in an area not under quarantine because of cattle fever ticks (see Part 72 of this chapter) and must be stored in the facility in a manner which adequately protects these supplies against infestation by vermin and against spoilage.

(3) *Operating procedures.* To retain designation as an approved quarantine facility, the following procedures shall be observed at the facility at all times:

(i) *Personnel.* Access to the facility shall be granted only to persons working at the facility or to persons specifically granted such access by the Veterinary Services veterinarian.

(A) All personnel granted access to the sheep-holding area shall:

(*1*) Wear clean protective clothing and footwear upon entering the sheep-holding area;

(*2*) Change protective clothing and footwear when they become soiled or contaminated;

(*3*) Shower when entering and leaving the sheep-holding area;

(*4*) Shower when leaving the necropsy area after conducting a necropsy; and

(*5*) Be prohibited from having contact with any sheep other than the lot of sheep to which the person is assigned and be prohibited from having contact with ruminants or swine outside the quarantine facility.

(B) The operator of the facility shall handle soiled and contaminated clothing worn within the quarantine facility in a manner approved by the Veterinary Services veterinarian as adequate to preclude transmission of any animal disease agent from the facility.

(ii) Any other person who enters the sheep-holding area, in addition to those persons granted access in paragraph (b)(3)(i) of this section, shall be prohibited from having contact with other lots of sheep within the facility and with ruminants and swine outside the facility for a period of time determined by the supervising veterinarian as necessary to prevent a risk of spreading communicable livestock diseases.

(iii) Any vehicle entering the quarantine facility building to deliver feed shall be cleaned and disinfected under the supervision of a Veterinary Services inspector with a disinfectant authorized in § 71.10 of the regulations immediately before entering and before leaving the facility.

(iv) *Handling of the sheep in quarantine.* The sheep in the quarantine facility shall be handled in compliance with the following requirements:

(A) Each lot of sheep to be quarantined shall be placed in the facility on an "all-in, all-out" basis. No sheep shall be taken out of the lot while it is in quarantine except for diagnostic purposes and no sheep shall be added to a lot while the lot is in quarantine.

(B) The portion of the quarantine facility from which a lot of sheep has been released shall be thoroughly cleaned and disinfected under supervison of a Veterinary Services inspector with a disinfectant authorized in § 71.10 of this chapter, before a new lot is placed in that portion of the facility.

(v) *Records.* It shall be the responsibility of the supervisory veterinarian to maintain a current daily log for each lot of sheep, recording such information as the individual identification of the sheep, source or origin of the sheep in the lot, total number of sheep in the lot when imported, number of dead or injured sheep when the lot arrived, the date the lot was placed into the facility, the general condition of the sheep each day, record of any medications administered to the sheep, number of deaths each day in the lot during the quarantine period, necropsy results, laboratory findings on sheep that died during the quarantine period, date of prescribed tests and results, Department import permit numbers of each lot, the date the lot was removed from the facility, and any other observations pertinent to the general health of the sheep in the lot. The operator of the facility shall hold the log for 12 months following the date of release of the sheep from quarantine and shall make it available to Veterinary Services personnel upon request.

(4) *Environmental requirements.* It shall be the responsibility of the operator of the facility to provide a certification executed by an appropriate government official indicating compliance with the applicable laws for environmental protection.

(5) *Additional requirements.* Additional requirements as to location, security, physical plant and facilities, sanitation, and other items may be imposed by the Administrator in each specific case in order to assure that the quarantine of the sheep in such facility will be adequate to enable determination of their health status, prevent spread of disease among sheep in quarantine, and prevent escape of animal disease agents from the facility.

(c) *Request for approval.* Requests for approval of a privately operated quarantine facility shall be made by writing to the Administrator, APHIS, USDA, 6505 Belcrest Road, Hyattsville, MD 20782. The request should include the full name and mailing address of the applicant and the location and street address of the facility for which approval is sought. Requests for approval and plans for proposed facilities shall be submitted no less than 90 days before the proposed date of entry of the first lot of sheep into the quarantine facility.

(d) *Withdrawal or denial of approval.* (1) Approval of any facility may be refused and approval of any approved quarantine facility may be withdrawn at any time by the Administrator, for any of the reasons provided in paragraph (d)(2) of this section. Before such action is taken, the operator of the facility will be informed of the reasons for the proposed action. If there is a conflict as to any material fact, the operator, upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action, in accordance with rules of practice which shall be adopted for the proceeding. However, such withdrawal shall become effective pending final determination in the proceeding when the Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal shall be effective upon oral or written notification, whichever is earlier, to the operator of the facility. In the event of oral notification, written confirmation shall be given to the operator of the facility as promptly as circumstances allow. This withdrawal shall continue in effect pending the completion of the proceeding and any judicial review, unless otherwise ordered by the Administrator. In addition to withdrawal or denial of approval when the requirements for approval are not complied with, approval will be automatically withdrawn by the Administrator when the operator of any approved facility notifies the Area Veterinarian in Charge for the State in which the facility is located, in writing, that the facility is no longer in operation.[2]

(2) Except as provided in paragraph (d)(4) of this section, the approval of a privately operated quarantine facility for sheep may be denied or withdrawn if:

(i) Any requirement of this section is not complied with; or

(ii) The operator or a person responsibly connected with the business of the quarantine facility is or has been convicted of any crime under any law regarding the importation or quarantine of any animal or bird; or

(iii) The operator or a person responsibly connected with the business of the quarantine facility is or has been convicted of any crime involving fraud, bribery, or extortion or any other crime involving a lack of integrity needed for the conduct of operations affecting the importation of animals; or

(iv) The approved quarantine facility has not been used to quarantine sheep for a period of one year.

(3) For the purposes of this section, a person shall be deemed to be responsibly connected with the business of the quarantine facility if such person has an ownership, mortgage, or lease interest in the facility's physical plant, or if such person is a partner, officer, director, holder or owner of 10 per cent or more of its voting stock, or an employee in a managerial or executive capacity.

(4) The denial or withdrawal referred to in paragraph (d)(2) of this section shall not be solely based upon the convictions of those persons responsibly connected with an approved privately operated quarantine facility for sheep if, after issuance of a complaint and upon receipt of notification from the Administrator of the denial or withdrawal, the operator of the approved quarantine facility enters into a consent agreement with the Administrator, in which it is agreed that the responsibly connected person identified in the notification shall not ever be associated with the approved quarantine facility and the operator complies with the provisions of the agreement. Violation of the consent agreement shall constitute independent grounds for withdrawal of approval of an approved quarantine facility.

(Approved by the Office of Management and Budget under control numbers 0579-0040)

[2] The name and address of the Veterinarian in Charge of any State are available from the Administrator, APHIS, USDA, 6505 Belcrest Road, Hyattsville, MD 20782.

Done in Washington, DC, this 7th day of June, 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-13164 Filed 6-9-88; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-NM-04-AD; Amdt. 39-5956]

Airworthiness Directives; British Aerospace Model BAC 1-11 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive, applicable to British Aerospace Model BAC 1-11 series airplanes, which currently requires inspection and repair or replacement of parts or material pertaining to the airframe intake plenum to the auxiliary power unit (APU); placement of a placard on the control panel; and changes in operational procedures in the airplane flight manual (AFM). This amendment requires a revision of the AFM to update certain procedures, and provides an alternate service bulletin, alternate part numbers, and alternate material for the accomplishment of the inspections required by the existing AD.

DATES: Effective July 18, 1988.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Armella Donnelly, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to amend AD 68-01-01, Amendment 39-998 (35 FR 104; May 28, 1970), applicable to British

Aerospace Model BAC 1-11 series airplanes, by revising certain AFM procedures, and providing an alternate service bulletin, alternate part numbers, and alternate material for the accomplishment of certain required inspections, was published in the **Federal Register** on February 26, 1988 (53 FR 5801).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

One commenter supported the proposed rule.

The other commenter noted that a statement in the preamble to the Notice, which indicated that the proposed AD was prompted by "recent system improvements," was inaccurate. The commenter stated the revision is required solely to re-introduce certain limitations into Section 2 of the airplane flight manual (AFM) which had been inadvertently removed some time ago. The FAA does not fully concur with the commenter. The intent of this AD, as specified in the preamble to the Notice, is not only to update the AFM procedures that are obsolete and inappropriate, but also to provide operators with the option of using the latest standard of non-return valves and other materials available and the most recently-introduced service information to accomplish the requirements of the AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule.

It is estimated that 70 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,600.

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because of the minimal cost of compliance per airplane ($80). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising AD 68-01-01, Amendment 39-998 (35 FR 104; May 28, 1970), as follows:

British Aerospace: Applies to Model BAC 1-11 200 and 400 series airplanes. Compliance required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent heat damage or fire in the airframe plenum of the auxiliary power unit (APU) installation, accomplish the following:

A. For use of the APU on the ground, accomplish the following:

1. Visually check the fiberglass surround of the APU intake of the fuselage immediately behind the intake grill for evidence of heat discoloration. If evidence of heat is present, remove the non-return valve located in the APU air delivery duct, Part No. 525180, and replace with a serviceable Part No. 525180 or modified Part No. 1398B000, 1398B000/1398B999, or 3031B000.

2. Install a placard adjacent to the APU control panel in clear view of the pilot and amend the airplane flight manual limitations Section 2, to read as follows: "Close APU air delivery valve when starting an engine from an external supply or by cross-feeding air from an operating engine. Close APU air delivery valve and shut down APU for takeoff and flight operations." When all actions required by paragraph B., below, are accomplished, the placard may be removed or the foregoing amendment to the airplane flight manual should be deleted, as appropriate.

3. Remove all APU plenum chamber sound proofing.

B. For operational use of the APU in flight, accomplish the following:

1. Remove non-return valve, Part No. 525180, located in the APU air delivery duct and replace with non-return valve, Part No. 1398B000, 1398B000/1398B999, or 3031B000, in accordance with British Aerospace BAC 1-11 Service Bulletins 36-PM3254 or 36-PM4912.

2. Perform the following modifications in accordance with British Aerospace BAC 1-11 Service Bulletin 53-PM3148:

a. Install additional fire-proof, stainless steel skin over existing light alloy outer skin on top of the fuselage, between Stations 936 and 958 to isolate the APU plenum chamber from the fin structure.

b. Replace the light alloy wall separating the APU plenum chamber from the hydraulic compensator unit compartment by installing a stainless steel wall enlarging the hydraulic compensator box and replacing light alloy structural parts with stainless steel.

c. Install revised spring loaded door in the bulkhead at Station 936 and modify the hydraulic compensator drain box and drain outlet.

3. Install sealing plates around the control guard, located above the rudder power control units, and over the hole in the fin rear spar, to provide restriction to the airflow into the fin, in accordance with British Aerospace BAC 1-11 Service Bulletin 55-PM3177.

4. Install an additional bi-metallic temperature sensor in parallel with the existing mercury sensor in circuitry for controlling the electrically actuated primary temperature valve located in the low pressure bleed flow duct to the heat exchanger, in accordance with British Aerospace BAC 1-11 Service Bulletin 21-PM 2780A, or install Graviner bi-metallic sensor in accordance with BAC 1-11 Modification 21-PM-2545 Part A.

5. Perform a magnetic check to identify "felt metal" jet pipe installed on the APU manufactured from type "430" stainless steel post PM 209 in accordance with British Aerospace BAC 1-11 Service Bulletin 49-A-PM3313. Thoroughly inspect the jet pipes thus identified for cracks adjacent to the weld. Replace cracked pipes with serviceable pipes manufactured from 430 or 347 material. Jet pipes identified as manufactured from "430" stainless steel and found by inspection to be in a serviceable condition, may continue in operation provided that the inspection is performed thereafter at intervals not to exceed 160 hours time in service. Type "430" jet pipes must be removed from service upon accumulating 3,000 hours time in service.

6. Add a new paragraph at the end of Section 2, Page 15, of the BAC 1-11 airplane flight manual entitled "APU Supply and Air Conditioning," to read as follows:

"The following limitations on the use of the APU air supply and integrated air system shall be observed to limit the time of exposure of the common duct to the simultaneous delivery of air from the engines and the APU.

a. Whenever an engine is being started by air from an external supply or by cross-feeding air from the other engine, the APU air delivery valve shall be closed.

b. When one or both engines are running and the APU is supplying air for both air conditioning systems, the master valve switch for each system must be set to APU.

If the APU is only supplying air for one system, the master valve switch for that system must be set to APU and, for the

system not in use, the master valve switch must be set to CLOSE and isolation valve switch must be set to CLOSE.

c. After take-off and when changing the source of supply from the APU to the engines, the APU air delivery valve switch must be set to CLOSE immediately on completion of the change-over drill. Refer to Section 4."

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This Amendment revises AD 68-01-01, Amendment 39-998.

This Amendment becomes effective July 18, 1988.

Issued in Seattle, Washington, on June 3, 1988.

Thomas J. Howard,

Acting Director, Northwest Mountain Region.

[FR Doc. 88-13020 Filed 6-9-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 88-ASW-18]

Alteration of VOR Federal Airways; Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Amendment to final rule.

SUMMARY: This action corrects the description of Federal Airway V-66 by changing the Abilene radial from 253°T to 252°T and changes the descriptions of V-76 and V-94 by describing airway segments as being "direct" routes instead of describing these segments via their en route radial components. This action is necessary because the Hyman, TX, very high frequency omni-directional radio range (VOR) has been decommissioned and should not be included in the airway description.

EFFECTIVE DATE: 0901 UTC, June 30, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 88-10146 was published on May 9, 1988, and amended the descriptions of V-66, V-76 and V-94 that are located in the vicinity of Hyman, TX (53 FR 16387). Inadvertently, an en route radial between Midland, TX, and Abilene, TX, was described as the intersection of the Midland 081°T and the Abilene, TX, 253°T radials. Abilene should be the 252°T radial. Also, due to the decommissioning of the Hyman, TX, VOR, the descriptions of airway segments in V-76 and V-94 are being amended to delete all reference to the Hyman, TX, VOR. These actions are minor in nature and do not significantly affect the configuration of controlled airspace or the routing of the airways involved.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 88-10146, as published in the **Federal Register** on May 9, 1988, (53 FR 16387) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-66 [Amended]

By removing the words "Midland, TX; Hyman, TX, INT Hyman 074° and Abilene, TX, 251° radials;" and substituting the words "Midland, TX; INT Midland 081° and Abilene, TX, 252° radials;"

V-76 [Amended]

By removing the words "Big Spring; Hyman, TX; San Angelo, TX;" and substituting the words "Big Spring; San Angelo;"

V-94 [Amended]

By removing the words "Midland, TX; Hyman, TX; Tuscola, TX;" and substituting the words "Midland, TX; Tuscola;"

Issued in Washington, DC, on June 2, 1988.

Temple H. Johnson,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 88-13018 Filed 6-9-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 25622; Amdt. No. 1375]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC, on May 27, 1988.

Robert L. Goodrich,

Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . *Effective August 25, 1988*

Omaha, NE—Millard, NDB Rwy 12, Amdt. 9
Omaha, NE—Millard, RNAV Rwy 12, Amdt. 5
Madison, WI—Dane County Regional-Truax Field, VOR or TACAN Rwy 13, Amdt. 21
Madison, WI—Dane County Regional-Truax Field, VOR or TACAN Rwy 18, Amdt. 18
Madison, WI—Dane County Regional-Truax Field, VOR or TACAN Rwy 31, Amdt. 22
Madison, WI—Dane County Regional-Truax Field, RADAR-1, Amdt. 14

. . . *Effective July 28, 1988*

Hartford CT—Hartford-Brainard, LDA RWY 2, Orig.
Hartford CT—Hartford-Brainard, NDB RWY 2, Amdt. 1
Dalton, GA—Dalton Muni, LOC RWY 14, Amdt. 3
Dalton, GA—Dalton Muni, NDB RWY 14, Orig.
Dalton, GA—Dalton Muni, NDB RWY 14, Amdt. 3, *Cancelled*
Lawrenceville, GA—Gwinnett County-Briscoe Field, VOR/DME RWY 7, Orig.
Champaign-Urbana, IL—University of Illinois-Willard, VOR RWY 4L, Amdt. 10
Champaign-Urbana, IL—University of Illinois-Willard, VOR/DME RWY 22R Amdt. 7

Champaign-Urbana, IL—University of Illinois-Willard, LOC BC RWY 14R, Amdt. 7
Champaign-Urbana, IL—University of Illinois-Willard, NDB RWY 32L, Amdt. 10
Champaign-Urbana, IL—University of Illinois-Willard, ILS RWY 32L, Amdt. 11
Champaign-Urbana, IL—University of Illinois-Willard, RADAR-1, Amdt. 6
Park Rapids, MN—Park Rapids Muni, VOR/DME RWY 13, Amdt. 6
Park Rapids, MN—Park Rapids Muni, NDB RWY 31, Amdt. 3
Park Rapids, MN—Park Rapids Muni, MLS RWY 31 (Interim), Amdt. 3
Warroad, MN—Warroad-Swede Carlson Field, NDB RWY 31, Amdt. 5
Le Roy, NY—Le Roy, VOR-A, Orig.
Syracuse, NY—Syracuse Hancock Intl, ILS RWY 28, Amdt. 30
Wilmington, NC—New Hanover County, ILS RWY 34, Amdt. 20
Kenosha, WI—Kenosha Muni, VOR RWY 14, Amdt. 7
Kenosha, WI—Kenosha Muni, VOR RWY 24R, Orig.
Mineral Point, WI—Iowa County, NDB Rwy 22, Amdt. 3

Effective June 30, 1988

Blythe, CA—Blythe, VOR/DME RWY 26, Amdt. 5
Blythe, CA—Blythe, VOR-A, Amdt. 6
Rifle, CO—Garfield County, LOC/DME-A, Amdt. 1
La Grange, GA—Callaway, VOR RWY 13, Amdt. 14
La Grange, GA—Callaway, LOC RWY 31, Orig., *Cancelled*
La Grange, GA—Callaway, ILS RWY 31, Orig.
Hailey, ID—Friedman Memorial, NDB/DME-A, Orig.
Sparta, IL—Sparta Community-Hunter Field, NDB RWY 18, Orig.
Sparta, IL—Sparta Community-Hunter Field, NDB RWY 18, Amdt. 4, *Cancelled*
Lewistown, MT—Lewistown Muni, VOR RWY 7, Amdt. 12
Monroe, NC—Monroe, NDB RWY 23, Amdt. 4, *Cancelled*
Raleigh/Durham, NC—Raleigh/Durham, ILS RWY 5L, Orig.
Astoria, OR—Port of Astoria, Copter VOR/DME 063, Orig.
Pittsburgh, PA—Greater Pittsburgh Intl, VOR/DME or TACAN RWY 14, Orig.
Big Spring, TX—Big Spring McMahon-Wrinkle, VOR/DME RWY 17, Amdt. 5
Big Spring, TX—Big Spring McMahon-Wrinkle, VOR/DME RWY 35, Amdt. 5

Effective May 26, 1988

Roanoke, VA—Roanoke Regional/Woodrum Field, NDB RWY 33, Amdt. 8
Roanoke, VA—Roanoke Regional/Woodrum Field, ILS RWY 33, Amdt. 8

Effective May 12, 1988

Detroit, MI—Willow Run, ILS RWY 23L, Amdt. 4

January 28, 1988

Salt Lake City, UT—Salt Lake City Intl, ILS Rwy 34L, Amdt. 38

[FR Doc. 88-13017 Filed 6-9-88; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

Registration of Manufacturers, Distributors, and Dispensers of Controlled Substances

AGENCY: Drug Enforcement Administration (DEA), DOJ.

ACTION: Final rule.

SUMMARY: This Final Rule amends DEA's regulations concerning registration of researchers handling controlled substances in Schedule II to both modify and decrease the information which such researchers must supply on an application for registration. This change will lessen the burden of applicants for research registration for Schedule II controlled substances who do not intend to manufacture or import these controlled substances by eliminating the requirement that they list the drug codes for these substances on their applications for registration.

EFFECTIVE DATE: July 11, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Alfred A. Russell, Chief, Regulatory Support Section, Office of Diversion Control, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Telephone (202) 633-1570.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on February 9, 1988 (53 FR 3757) to amend portions of 21 CFR Part 1301. This proposed rulemaking provided an opportunity for interested parties to submit comments or objections in writing on or before March 10, 1988. No comments or objections were received.

The Deputy Assistant Administrator for the Office of Diversion Control hereby certifies that this rule will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This rule is not a major rule for the purposes of Executive Order (E.O.) 12291 of February 17, 1981. Pursuant to Sections 3(c)(3) and 3(e)(2)(C) of E.O. 12291, this proposed rule has been submitted for review to the Office of Management and Budget.

Pursuant to the authority vested in the Attorney General by 21 U.S.C. 821 and 871(b) and delegated to the Administrator of the Drug Enforcement Administration and redelegated to the Deputy Assistant Administrator of the Office of Diversion Control by 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator hereby orders that 21 CFR Part 1301 be amended as follows:

List of Subjects in 21 CFR Part 1301

Administrative practice and procedure, Drug Enforcement Administration, Drug traffic control, Security measures.

PART 1301—[AMENDED]

1. The authority citation for Part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877.

2. Section 1301.32 is amended by revising paragraph (d), redesignating paragraphs (e) and (f) as paragraphs (f) and (g), respectively, and adding a new paragraph (e), as follows:

§ 1301.32 Application forms; contents; signature.

* * * * *

(d) Each application for registration to handle any basic class of controlled substance listed in Schedule I (except to conduct chemical analysis with such classes) and each application for registration to manufacture a basic class of controlled substance listed in Schedule II shall include the Administration Controlled Substances Code Number, as set forth in Part 1308 of this chapter, for each basic class to be covered by such registration.

(e) Each application for registration to conduct research with any basic class of controlled substance listed in Schedule II shall include the Administration Controlled Substances Code Number, as set forth in Part 1308 of this chapter, for each such basic class to be manufactured or imported as a coincident activity of that registration. A statement listing the quantity of each such basic class or controlled substance to be imported or manufactured during the registration period for which application is being made shall be included with each such application. For purposes of this paragraph only, manufacturing is defined as the production of a controlled substance by synthesis, extraction or by agricultural/horticultural means.

* * * * *

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: April 29, 1988.

[FR Doc. 88-13120 Filed 6-9-88; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 3 and 160

[CGD 88-037]

Changes to Honolulu and Guam Marine Inspection Zones and Captain of the Port Zones and Deletion of Delegation of Authority

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule reassigns various Coast Guard Marine Inspection and Captain of the Port Zones within the Fourteenth Coast Guard District to reflect organizational changes in the Coast Guard. The Coast Guard is establishing a Marine Safety Office in Guam which will assume responsibility for the discharge of Coast Guard marine safety functions for Guam and the Commonwealth of the Northern Mariana Islands from the Marine Safety Office in Honolulu. Additionally, this rule removes the regulation which authorized the Commander, Marianas Section to exercise the authority of the Captain of the Port within the waters surrounding Guam and the Commonwealth of the Northern Mariana Islands under the direction of the Captain of the Port Honolulu. Since Marine Safety Office Guam is being established as a separate unit, the delegated authority from the Captain of the Port Honolulu is no longer necessary. These organizational changes will not affect any Coast Guard services to the public.

EFFECTIVE DATE: June 1, 1988.

FOR FURTHER INFORMATION CONTACT: Cynthia Clark, Program Analyst, U.S. Coast Guard, Office of Marine Safety and Environmental Protection, Planning Staff, 2100 Second Street SW., Washington, DC 20593-0001. Telephone (202) 267-0784. Normal working hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not prepared for this regulation. These amendments are matters relating to agency organization and are exempt from the notice and comment requirements of 5 U.S.C. 553(b). Since this rule reflects current organizational changes being placed in effect and has no substantive effect, good cause exists to make it effective in less than 30 days after publication under 5 U.S.C. 553(d). The rulemaking merely changes Marine Inspection and Captain of the Port Zones to conform with changes in the Coast Guard's internal organization and removes a delegation of Captain of the Port authority which was extended from the Captain of the Port Honolulu to the Commander, Marianas Section. There will be no adverse effect on the public since Fourteenth Coast Guard District units will continue to perform all functions affecting the public that were previously performed.

Drafting Information

The principal persons involved in drafting this rulemaking are Commander M.W. Mastenbrook, Project Manager, Fourteenth Coast Guard District Marine Safety Division; and Lieutenant Commander R.W. Bogue, Project Counsel, Fourteenth Coast Guard District Legal Office.

Discussion

Effective June 1, 1988, the Coast Guard will establish Marine Safety Office Guam. A Marine Safety Office is a consolidation of the Marine Inspection Office and the Captain of the Port Office. In 1982 the Coast Guard closed the Marine Safety Office in Guam due to budgetary constraints. The responsibility for discharging the Marine Inspection and Captain of the Port functions for Guam was assigned to Marine Safety Office Honolulu. In consideration of time and distance factors, a special delegation of Captain of the Port authority was extended from the Captain of the Port Honolulu to Commander, Marianas Section so that the latter could exercise such authority under the direction of the former, especially in emergency situations. Now, with the significant increase of commercial vessel traffic and other marine activities in Guam and the Commonwealth of the Northern Mariana Islands, the Coast Guard considers it to be a more effective use of its resources to have two Marine Safety Offices to serve the Central and Western Pacific instead of one. While enabling more efficient internal management and enhancing performance of missions, this reorganization will not affect any Coast Guard services to the public.

Regulatory Evaluation

This final rule is exempt from the provisions of Executive Order 12291 since it pertains to matters of agency organization as provided for in section 1(a)(3) of the Order. It is considered to be non-significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be minimal and further evaluation is unnecessary. This final rule places no requirements on any sector of the public. It will not affect Coast Guard services delivered to the public. The rule reflects a change in internal Coast Guard organization, streamlining the logistics and support functions. In accomplishing this, some functions, and personnel, will be transferred from one location to another. Since the impact of the final rule is minimal, the Coast Guard certifies that it will not have a significant adverse economic impact on a substantial number of small entities.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects

33 CFR Part 3

Organization and functions (Government agencies).

33 CFR Part 160

Administrative practice and procedures, harbors, hazardous materials transportation, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

In consideration of the foregoing, Parts 3 and 160 of Title 33 of the Code of Federal Regulations is amended as set forth below.

PART 3—[AMENDED]

1. The authoriry citation for Part 3 continues to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.45, 1.46.

2. In § 3.70–10, paragraphs (b) and (c) are revised to read as follows:

§ 3.70–10 Honolulu Marine Inspection Zone and Captain of the Port Zone.

* * * * *

(b) The Honolulu Marine Inspection Zone and the Honolulu Captain of the Port Zone boundaries are the boundaries of the Fourteenth Coast Guard District, except for the Territory of Guam and the Commonwealth of the Northern Mariana Islands.

(c) Required notifications to the Officer in Charge, Marine Inspection and/or the Captain of the Port, Honolulu may be made in American Samoa to: United States Coast Guard Liaison Office, American Samoa, P.O. Box 249, Pago Pago, American Samoa 96799.

3. Section 3.70–15 is added to read as follows:

§ 3.70–15 Guam Marine Inspection Zone and Captain of the Port Zone.

(a) The Guam Marine Inspection Office and Captain of the Port Office are in Agana, Guam.

(b) The Guam Marine Inspection Zone and the Guam Captain of the Port Zone are comprised of the area of the Territory of Guam and the Commonwealth of the Northern Mariana Islands.

PART 160—[AMENDED]

4. The authority citation for Part 160 is revised to read as follows:

Authority: 33 U.S.C. 1221, 49 CFR 1.46.

§ 160.5 [Amended]

5. In § 160.5, paragraph (d) is removed.

Dated: June 3, 1988.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 88–13026 Filed 6–9–88; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD11 88–03]

Special Local Regulations; Base to Base Swim; San Diego, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Base to Base Swim. This event will be held on 11 June 1988 at Pier 2 Naval Station San Diego, California to Boat Landing, Naval Amphibious Base Coronado, California. The regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective at 8:00 a.m. on 11 June 1988 and terminate at 10:00 a.m. on 11 June 1988.

FOR FURTHER INFORNATION CONTACT: LT C.A. Stock, U.S. Coast Guard Group San Diego, 2710 North Harbor Drive, San Diego, California 92101 Tel: (619) 557–5816.

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 the event was not received until 20 April 1988, and there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Nevertheless, interested persons wishing to comment may do so by submitting written views, data, or arguments. Commenters should include their name and address, identify this notice (CGD11 88–03) and the specific section of the rule to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The regulations may change in light of comments received.

Drafting Information

The drafters of this regulation are LT K.S. Gregory, project officer, Eleventh Coast Guard District Boating Affairs Office, and LT G.R. Wheatley, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The Naval Station San Diego's "Base to Base Swim" will be conducted on 11 June 1988 at Pier 2 Naval Station San Diego, California to Boat Landing, Naval Amphibious Base Coronado, California. Approximately 200 swimmers are expected to participate in this event and could pose a hazard to navigation. Therefore, vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

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—SAFETY OF LIFE ON NAVIGABLE WATERS

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. A temporary § 100.35–11–88–03 is added to read as follows:

§ 100.35–11–88–03 Base to Base Swim, San Diego, California.

(a) *Regulated Area:* The following area will be closed intermittently to all vessel traffic: that portion of the San Diego Bay beginning at Pier 2 Naval Station San Diego, California to Boat Landing Naval Amphibious Base Coronado. California. The area will be opened for ten minutes on the hour, to allow the transit of spectators.

(b) *Special Local Regulations:* All persons and/or vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. "Official patrol vessels" consist of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessel assigned and/or approved, by Commander, U.S. Coast Guard Group San Diego for each event.

(1) Spectators shall not anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times unless cleared for such entry by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel a spectator shall come to an immediate stop and comply with all directions given. Failure to do so may result in a citation for failure to comply.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander shall be designated by the Commander, U.S. Coast Guard Group San Diego. He may terminate the event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(c) *Effective Dates:* These regulations are effective from 8:00 am to 10:00 am on 11 June 1988.

Dated: June 6, 1988.

J.W. Kime,

Rear Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.

[FR Doc. 88–13025 Filed 6–9–88; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Hampton Roads, VA; Regulation 88–01]

Security Zone Regulations; Lynnhaven Roads, Lower Chesapeake Bay and Atlantic Ocean Off Dam Neck, Virginia Beach, VA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing two security zones. One is located in Lynnhaven Roads of the Lower Chesapeake Bay, Virginia Beach, Virginia. The other in the waters of the Atlantic Ocean adjacent to State Military Reservation, Camp Pendleton and Fleet Combat Training Center Atlantic, Dam Neck, Virginia Beach, Virginia. The security zones are needed to secure the obligation of the United

States to protect representatives of foreign governments who will be in the Norfolk/Virginia Beach area during the period.

EFFECTIVE DATES: These regulations become effective at 8:00 a.m., EDST, on June 12, 1988. They terminate at 5:00 p.m., EDST, on June 18, 1988, unless terminated sooner by the Captain of the Port Hampton Roads, Virginia.

FOR FURTHER INFORMATION CONTACT: Lieutenant J.M. Farley at USCG Marine Safety Office Hampton Roads, 200 Granby Mall, Norfolk, Virginia 23510–1888, (804) 441–3306.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making (NPRM) was not published for these regulations and they are being made effective in less than 30 days from the date of this publication. Publishing a NPRM and advance notice of these security zones would be contrary to the public interest since early disclosure of the dates of the security zones could jeopardize the safety of the foreign representatives who will be in the Norfolk/Virginia Beach area during the period by providing subversive elements and foreign terrorists advance notice of their presence. In addition, 5 U.S.C. 553 does not apply to these regulations since they involve a military and foreign affairs function of the United States.

Drafting Information

The drafters of this regulation are Lieutenant J.M. Farley, project officer for the Captain of the Port Hampton Roads, Virginia and Commander R.J. Reining, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulation

The Coast Guard is establishing two security zones. One is located in Lynnhaven Roads of the Lower Chesapeake Bay, Virginia Beach, Virginia. The other is located in the waters of the Atlantic Ocean adjacent to State Military Reservation, Camp Pendleton and Fleet Combat Training Center Atlantic, Dam Neck, Virginia Beach, Virginia. The security zones are needed to secure the obligation of the United States to protect representatives of foreign governments who will be in the Norfolk/Virginia Beach area during the period.

The security zones will be marked by special purpose buoys with flashing yellow lights. The Lynnhaven Roads Security Zone buoys will be set at positions 36°56'09" N. latitude, 076°05'04" W. longitude; 36°55'53" N. latitude, 076°04'04" W. longitude; and 36°55'37" N. latitude, 076°03'04" W. longitude. The Dam Neck Security Zone buoys will be set in positions 36°48'58" N. latitude, 075°57'32" W. longitude; 36°49'43" N. latitude, 075°55'33" W. longitude; 36°47'44" N. latitude, 075°55'03" W. longitude; 36°46'06" N. latitude, 075°54'32" W. longitude; and 36°45'41" N. latitude, 075°56'34" W. longitude.

Persons and vessels within the security zones are required to obey any direction or order of the Captain of the Port or a representative of the Captain of the Port, who may board and search any vessel, ask any individual within the security zone to present identification, and remove any person, vessel, article, or thing from the security zones. Within the Lynnhaven Roads Security Zone, swimmers, surf fishermen, rowboats, small open rafts, surfboards, windsurfers, small open sailboats (e.g., sailboards, "Hobie" cats, daysailers), and other non-self-propelled vessels without accessible closed compartments will be permitted to enter the security zone without obtaining permission from or reporting their presence to the Captain of the Port or a representative of the Captain of the Port. Divers will not be permitted within the security zone.

Self-propelled vessels and any vessels with accessible closed compartments (including sailing vessels, rafts, and rowboats that have accessible closed compartments) will be required to check in with a representative of the Captain of the Port before entering the security zone. These vessels will be required to come along side one of the Coast Guard patrol boats or vessels of a Federal, state, local, or private agency assisting the Captain of the Port enforce the security zone and identify the individuals aboard. Patrol boats will be stationed along the boundary of the security zone.

Within the Dam Neck Security Zone, swimmers, surf fishermen, rowboats, small open rafts, surfboards, windsurfers, small open sailboats (e.g., sailboards, "Hobie" cats, daysailers), and other non-self-propelled vessels without accessible closed compartments will be permitted to enter the security zone from the beach adjacent to the security zone without obtaining permission from or reporting their presence to the Captain of the Port or a representative of the Captain of the Port. Self-propelled vessels and any vessels with accessible closed compartments (including sailing vessels, rowboats, and rafts that have accessible closed compartments) will not be permitted to enter the security zone without permission from the Captain of the Port or a representative of the Captain of the Port. Divers will not be permitted within the security zone.

Coast Guard patrol vessels will be on scene at all times while the zones are in effect to notify boaters of zone restrictions and enforce the security zones. Coast Guard patrol vessels will be monitoring channels 13 and 16 VHF–FM. Members of other Federal, state, local, and private agencies will assist the Captain of the Port in enforcing these regulations.

List of Subjects in 33 CFR Part 165

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

Regulation

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

PART 165—[AMENDED]

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

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

2. A new § 165.T0531 is added to read as follows:

§ 165.T0531 Security Zones: Virginia Beach, Virginia.

(a) *Locations.* (1) Lynnhaven Roads Security Zone: The waters of Chesapeake Bay enclosed by a line drawn from Lynnhaven Inlet East Obstruction Light, at position 36°54'24" N. latitude, 076°05'24" W. longitude; thence along the eastern channel boundary of Lynnhaven Inlet to 36°56'09" N. latitude, 076°05'04" W. longitude; thence to the shore at 36°55'32" N. latitude, 076°02'45" W. longitude.

(2) Dam Neck Security Zone: The waters of the Atlantic Ocean within a line drawn from the shore at 36°48'55" N. latitude, 075°57'58" W. longitude; thence to 36°49'23" N. latitude, 075°55'33" W. longitude; thence to 36°46'06" N. latitude, 75°54'32" W. longitude; thence to the shore at 36°45'38" N. latitude, 075°56'57" W. longitude.

(b) *Definitions.*

"Representative of the Captain of the Port" means a Coast Guard commissioned or petty officer who has been designated by the Captain of the Port.

(c) *General Regulations.* (1) The general regulations in § 165.33 of this part do not apply to these security zones.

(2) Each person or vessel in the security zones shall immediately obey any direction or order of the Captain of the Port or a representative of the Captain of the Port.

(3) The Captain of the Port, a representative of the Captain of the Port, or a member of a Federal, state, or local law enforcement agency who is assisting the Captain of the Port enforce the security zone may board and search any vessel within the security zone and ask any individual within the security zone to present identification.

(4) The Captain of the Port or a representative of the Captain of the Port may remove any person, vessel, article, or thing from the security zones.

(d) *Regulations for Lynnhaven Roads Security Zone.* (1) Except as provided in this paragraph, no person or vessel may enter the security zones without the permission of the Captain of the Port or a representative of the Captain of the Port.

(2) Individuals may enter the security zone to swim on the surface of the water without obtaining the permission of the Captain of the Port, but may not use any type of diving equipment, including snorkles or artificial breathing devices.

(3) Individuals may enter the security zone to surf fish (surfcasting) without obtaining the permission of the Captain of the Port.

(4) Rowboats, small open rafts, surfboards, windsurfers, small open sailboats, and other vessels that do not have accessible closed compartments may operate within the security zone without the permission of the Captain of the Port.

(5) Self-propelled vessels and vessels with accessible closed compartments may operate in the security zone if the vessel reports its presence to the Captain of the Port or a representative of the Captain of the Port before entering the security zone. The vessel shall come alongside a Coast Guard patrol boat or the vessel of a Federal, state, local, or private agency that is assisting the Captain of the Port enforce the security zone and identify the individuals aboard the vessel. Patrol boats are stationed along the boundary of the security zone.

(e) *Regulations for Dam Neck Security Zone.* (1) Except as provided in this paragraph, no person or vessel may enter the security zones without the permission of the Captain of the Port or a representative of the Captain of the Port.

(2) Individuals may enter the security zone to swim on the surface of the water without obtaining the permission of the Captain of the Port, but may not use any type of diving equipment, including snorkles or artificial breathing devices.

(3) Individuals may enter the security zone to surf fish (surfcasting) without obtaining the permission of the Captain of the Port.

(4) Rowboats, small open rafts, surfboards, windsurfers, small open sailboats, and other vessels that do not have accessible closed compartments may operate within the security zone without the permission of the Captain of the Port if they enter the security zone from the beach immediately adjacent to the security zone.

(f) *Effective Date.* These regulations become effective at 8:00 a.m., EDST, on June 12, 1988. They terminate at 5:00 p.m., EDST, on June 18, 1988, unless terminated sooner by the Captain of the Port Hampton Roads, Virginia.

Dated: June 6, 1988.

G.N. Naccara,

Commander, U.S. Coast Guard, Alternate Captain of the Port, Hampton Roads, Virginia.

[FR Doc. 88-13059 Filed 6-9-88; 8:45 am]

BILLING CODE 4910-14-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. 87-4]

Registration Decision; Registration and Deposit of Computer Screen Displays

AGENCY: Copyright Office, Library of Congress.

ACTION: Final registration decision, policy.

SUMMARY: This notice of a registration decision is issued to inform the public that the Copyright Office of the Library of Congress has determined that all copyrightable expression owned by the same claimant and embodied in a computer program, or first published as a unit with a computer program, including computer screen displays, is considered a single work and should be registered on a single application form. The notice also confirms the applicability to computer screen displays of 37 CFR 202.3(b)(3) concerning registration of all copyrightable expression in a unit of publication and 37 CFR 202.3(b)(6) concerning one registration per work. In order to clarify copyright claims in computer screen displays, applicants, will be accorded an option of depositing visual reproductions of computer screens along with identifying materials for the computer code. Where a work contains different kinds of authorship, the registration class will be determined on the basis of which authorship predominates. 37 CFR 202.3(b)(2).

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559. Telephone (202) 287-8380.

EFFECTIVE DATE: June 10, 1988.

SUPPLEMENTARY INFORMATION:

Registration of Computer Screen Displays; Policy Decision

1. Background

Original computer programs are works of authorship protected by copyright, whether they are in high level computer language (source code) or machine language (object code). *William Electronics, Inc. v. Artic International Inc.*, 685 F.2d 870 (3d Cir. 1982); and since 1964, the Copyright Office has registered computer programs as literary works. Section 101 of the Copyright Act of 1976, title 17 of the United States Code, defines a computer program as "a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result." Copyright registration is made for original computer programs in the literary work classification upon submission of an appropriate application, fee, and deposit identifying the work. In general, the first 25 pages or the equivalent and the last 25 pages or the equivalent of computer source code should be deposited in seeking registration. 37 CFR 202.20(c)(2)(vii).

The Copyright Act also provides that "[i]n no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work." 17 U.S.C. 102(b).

The courts have held in several videogame cases that pictorial and graphic screen displays can be copyrighted as audivisual works. *M. Kramer Manufacturing Co., Inc. v. Andrews*, 783 F.2d 421 (4th Cir. 1986); *Williams Electronics, Inc. v. Artic International, Inc.*, 685 F.2d 870 (3d Cir. 1982); *Stern Electronics, Inc. v. Kaufman*, 669 F.2d 852 (2d Cir. 1982).

Consistent with the videogame precedents, the Copyright Office in the past has registered pictorial screen displays that meet the ordinary standard of original, creative authorship. Single registrations have been made for the videogame displays and the computer

program code, as well as separate registrations for the display and the code. Under present practices, however, the Office does not register separately textual screen displays, reasoning that there is no authorship in ideas, or the format, layout or arrangement of text on the screen, and that any *literary* authorship in the screen display would presumably be covered by the underlying computer program—itself a literary work. Moreover, the regulations specify one registration per work. 37 CFR 202.3(b)(6).

Most claimants, consistent with Copyright Office regulations, have made only one registration for the computer program and have assumed that the registration covers any copyrightable authorship in the screen displays, without any need for a separate registration. The Copyright Office agrees with this interpretation of the regulations and registration practices.

Judicial decisions do not yet lend clear guidance on the copyrightability of screen displays (other than videogame displays), apart from the computer program. One court has held that protection of computer programs extends only to source and object code and not to input formats. *Synercom Technology, Inc. v. University Computing Company*, 462 F. Supp. 1003 (N.D. Tex. 1978). Others have protected the structure, sequence and organization of certain business-related programs, including the text and artwork of their audiovisual displays. *Broderbund Software, Inc. v. Unison World, Inc.*, 648 F. Supp. 1127 (N.D. Cal. 1985); *Whelan Associates, Inc. v. Jaslow Dental Laboratory, Inc.*, 797 F.2d 1222 (3d Cir. 1986). Most recently, in *Digital Communications Associates, Inc. v. Softklone Distributing Corp.*, 659 F. Supp. 449 (N.D. Ga. 1987), the court held the copyright in a computer program does not extend to the screen displays, but held valid a separate claim in a screen based on "compilation" of the menu terms.

The Copyright Office is currently holding a large number of claims to register textual and pictorial screen displays separate from the underlying programs that generate them. The *Softklone* decision, if generally followed, would seem to require a separate claim to copyright in screen displays in order to enjoy copyright protection. This decision seemed to cast doubt on the scope of copyright in computer programs where no separate registration was made for the screen displays. In order to consider whether a modification of existing registration practices is necessary, the Copyright Office held a public hearing on September 9 and 10, 1987, and solicited public comments. 52 FR 28311 (1987).

2. Summary of Comments

Twelve witnesses testified in the hearings held September 9th and 10th. In addition, 35 written comments were received.

Of the witnesses giving oral testimony, three took the position that computer screens should be registered separately from the underlying computer program. Two witnesses taking this position argued that only through separate registration could users become aware of the extent of copyright claims in computer screens. The third witness believed that computer screens should be registered separately because they represent fundamentally different authorship from the underlying computer program code.

Several witnesses favored giving the applicant an option either to register the computer screens and underlying program on a single application, or alternatively, to make two registrations—one for the program and one for the screen display. Proponents of this position agreed with those favoring separate registration that the authorship in the screen displays differs from the authorship in the computer program code. Nevertheless, witnesses for this position believed applicants should be able to protect their screens on the basis of a single registration of the underlying program if that were the course they chose to follow. They stressed that, although separate registration should be allowed at the claimant's option, it was essential that the Office's registration practices make clear that those claimants who *elect* a single registration nevertheless have full copyright protection for any original computer screens.

Several witnesses took the position that only a single registration, should be permitted for a published computer program and any authorship contained in the screens. The rationale for this position was that a published computer program is "a unitary work with a multiplicity of elements which are molded into a cohesive, integrated whole."

A fourth position endorsed by one witness would allow only a single registration to be made in most instances. However, as an exception to the general rule, a separate registration of elaborate, fanciful computer screen displays would be permitted where the audiovisual authorship is predominant over the computer code authorship and clearly identifiable as a separate work.

The comments received after the hearing (including some from those who had testified) largely tracked the themes expressed in the hearing. A few commentators urged greater restrictions on the application of the copyright law to protect computer programs. One commentator argued that the copyright law should not be applied to computer programs at all, and that protection should be limited to what is available under the patent law. Another commentator urged limiting protection to authorship revealed in the material deposited in the Copyright Office.

In summary, the public comments, both oral and written, fall into three main categories: mandatory separate registration of screens and program code; mandatory single registration of screens and program code; and single or separate registration at the option of the claimant.

3. Overview of Policies Adopted by the Copyright Office

The Copyright Office carefully considered all the testimony and written comments submitted with respect to computer screens. The Office has decided generally to require that all copyrightable expression embodied in a computer program, including computer screen displays, and owned by the same claimant, be registered on a single application form. This policy applies to unpublished computer programs as well as to published programs. The Office finds that in the interest of a clear, consistent public record, our registration practices should discourage piecemeal registration of parts of works. Ordinarily, where computer program authorship is part of the work, literary authorship will predominate, and one registration should be made on application Form TX. Where, however, audiovisual authorship predominates, the registration should be made on Form PA.

Under existing Copyright Office regulations, only one registration can be made for the same version of a particular work owned by a given claimant. 37 CFR 202.3(b)(6). In such cases, all copyrightable elements embodied in the work are covered by the single registration. Moreover, the Office generally prefers a single registration for a work that contains discrete authorship components, but is published together as a unit. 37 CFR 202.3(b)(3). Finally, where a work contains authorship elements that fall into two or more classes, the application should be filed in the authorship class that predominates. 37 CFR 202.3(b)(2). This principal applies even if the work

has two or more authors who have created either a unitary, a collective, or a joint work.

In considering the issue of computer screen displays, the Copyright Office concludes there is no sound basis for departing from the principles of these regulations in the case of computer programs and related screens.

In order to reflect better for the public record the copyright claims in computer screens, applicants will in the future be permitted to deposit visual reproductions of the computer screen displays along with reproductions of any accompanying sounds and the identifying material for the computer program code. The Office will examine the visual or audiovisual deposit and make a determination whether the deposit reveals copyrightable authorship.

4. One Registration Per Work

The long-standing principle of one registration per work has significant advantages for copyright claimants, the public, and the Copyright Office and provides a uniformity not available if multiple registrations were optional.

Copyright claimants are able to register all copyrightable elements contained in their work with a single application and fee.

The public is benefited through the maintenance of a clear, accurate, easily understandable public record. Permitting multiple registrations of parts of works would increase confusion among those attempting to use the records of the Copyright Office. Subdividing claims might also result in multiple infringement actions and multiple claims for statutory damages, based on separate registration.

The Copyright Office benefits by having a simplified administrative process.

Proponents of separate registration, either on a mandatory or optional basis, contend that the nature of authorship embodied in the computer program code is substantially different from the authorship typically embodied in computer screens. All witnesses agreed that the same screen displays can be generated by substantially different computer program code.

Even accepting that the nature of authorship in screens may be different from computer program code authorship, this does not alter the fact that the computer program code and screen displays are integrally related and ordinarily form a single work. Indeed, those commentators who favor either single or separate registration at the claimant's option must concede that the program code and screens are conceptually a single work.

In creating copyright subject matter, it is common to merge several different types of authorship to form a single work. Motion pictures are a clear example of a work in which the different creative talents of many contributors (writers, directors, editors, camera persons, etc.) are combined to create a single work. Under the regulations of the Copyright Office, where such a work is owned by a single owner, only one registration is generally possible.

Several commentators favored more restrictive registration practices. They contended that the registration should specify the boundaries of the copyright claim in order to provide greater guidance to users.

While the Copyright Office is sympathetic to users who may have difficulty in determining the scope of copyright in computer software, the registration practices of the Copyright Office cannot precisely determine the scope of protection in any work. The Office seeks to create a public record of the copyright claim that generally gives a clear, accurate picture of the authorship and narrows the issues that might otherwise be contested in time-consuming, expensive litigation. We attempt to keep out of the public record any frivolous, unsound, or otherwise unjustified claims. In this way, we assist the public and the courts. Ultimately, of course the courts determine the precise scope of protection.

5. Predominant Authorship Standard

As new technologies emerge, new means of expression are submitted to the Copyright Office for copyright registration. The registration decisions that are initially reached by the Office are often a matter of first impression. Such was the case when arcade videogames were first submitted to the Office for registration. The Office decided to permit an audiovisual registration of the displays, sometimes separate from the underlying computer program, and sometimes with the program as a single registration.

The Copyright Office has now decided to treat videogame displays the same as other works that include authorship in a computer program and screen displays. A single registration will be made for the audiovisual authorship and any related computer program code owned by the same claimant. Separate registrations will not be made. If audiovidual authorship predominates, the single registration should be made in Class PA.

The courts have not fully examined the implications of protection for screen displays except in the videogame context where standardization of user interface screens is not a significant public policy issue. The practices adopted today by the Office should facilitate judicial consideration of the relationship between computer program code authorship and screen displays.

6. "Nature of Authorship" Description

The "nature of authorship" for a computer program should be described in space 2 of the application form. An applicant may give a general description such as "entire work" or "computer program." This description would cover any copyrightable authorship contained in the computer program code and screen displays, regardless of whether identifying material for the screens is deposited. An applicant may include a reference to the authorship in screen displays, e.g. "computer program code and screen displays." Such a designation would require a deposit of visual reproductions showing sufficient copyrightable authorship to support a claim to copyright in the screen display.

Applicants should not refer to elements such as "menu screens;" "structure, sequence, and organization"; layout or format; and the like.

The *Compendium of Copyright Office Practices II*, as issued in 1984, sets forth that registration will not be made for the "algorithm" of a computer program or the "formatting," "functions," "logic," or "system design." *Compendium II*, § 325.02(c).

The Office has a well-established practice of refusing to register claims to copyright in mere format of text or images; this practice is based on the statutory prohibition against copyright in ideas, systems, concepts, or discoveries. 17 U.S.C. 102(b). *See also Morrissey v. Proctor & Gamble Co.*, 379 F.2d 675 (1st Cir. 1967) and *Atari Games Corp. v. Oman* (unpub. op., Civ. No. 88–0021, D.D.C. May 25, 1988). Of course, if the screen display images consist of original, creative pictorial expression, then copyright may be claimed in that expression. The courts will determine the scope of copyright protection in appropriate cases.

7. Deposit of Visual Reproductions of Computer Screen Display

The deposit requirement for registration of a computer program remains unchanged. When the authorship is described in general terms this deposit is sufficient to cover the entire claim, including any copyrightable authorship in the screen displays. Deposit of identifying material related to

the screens is possible but not ordinarily required.

However, when specific reference to a screen display is included in the application, the deposit must include visual or audiovisual reproductions of the screen displays. Visual reproductions shall consist of printouts, photographs, drawings or a ½ inch VHS videotape of the screens.

8. Implementation

The Copyright Office is not presently proposing any changes in the regulations. The basic policies of one registration per work, a single registration for different authorship combined in a single unit of publication, and a single registratrion based on predominant authorship, are already reflected in the regulations. The optional deposit of visual or audiovisual reproductions of computer screen displays as a supplement to the deposit of other identifying material has not yet been incorporated into the deposit regulations because the deposit regulations reflect minimum requirements. The regulations will be modified at a later time. This Notice of a Policy Decision will inform the public of the registration and deposit requirements relating to computer screen displays.

The Copyright Office will also modify Compendium II of Copyright Office Practices. The examination and registration of machine-readable works present many unique issues. The Copyright believes it is preferable to treat these in detail in a work such as the Compendium rather than in regulations that are intended to have general applicability.

9. Impact of This Policy Decision on Earlier Registrations

The policies announced in this computer screen displays decision constitute in essence a confirmation of the general registration policies first adopted in the 1978 registration regulations. Before opening this public proceeding, the Office held the general view that a single registration was sufficient to protect the copyright in a computer program, including related screen displays, without a specific claim to screen display authorship on the application and without deposit of identifying material disclosing the screen display. Since this decision confirms the validity of a single registration policy, the Office assumes that this decision makes clear to the public and the courts our view that multiple claims are unnecessary, and indeed not appropriate, to assert copyright in the screen displays.

Therefore, those past registrants who made a single registration for computer program code and screen displays should be reassured that the registrations are valid. The Office will not make a new basic or supplemental registration in order to allow a specific claim in the screen displays nor will the Office now accept the deposit of identifying material for the screens because all of the copyrightable authorship has already been registered.

In those cases where separate registrations were made for computer program code and the screen displays, the registrations are also valid if, in each case, the registration is based on original, creative authorship. In future, in accordance with this policy decision, the Office intends that a single registration should be made for a work consisting of a computer program and accompanying screen display that are owned by a single claimant. The registration class (literary, visual arts, or audiovisual, for example) will be determined on the basis of which authorship predominates.

Dated: June 3, 1988.

Ralph Oman,

Register of Copyrights.

Approved by:

William J. Welsh,

Acting Librarian of Congress.

[FR Doc. 88-13029 Filed 6-9-88; 8:45 am]

BILLING CODE 1410-07-M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for issue 27 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations, see 39 CFR 111.1.

Except for the money order restriction, which was previously published in the **Federal Register** and is now revised and retained, the revisions are minor, editorial, or clarifying.

EFFECTIVE DATE: June 19, 1988.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 268-2960.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual has been amended by the publication of a transmittal letter for issue 27, dated June 19, 1988. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

The following excerpt is from the Summary of Changes section of the transmittal letter for issue 27.

Summary of Changes

Section 122.31b, *Address Elements,* and 122.31, *Return Address,* are revised to recommend that the street and number and apartment number, or box number, or general delivery, or rural or highway contract route designation and box number, be included in the address on all mail matter whenever possible (*Postal Bulletin* (PB) 21672, 5-12-88).

The following Exhibits 122.63 are updated: 122.63e, Optional Area Distribution Center (ADC) Labeling List for Use with Presort First-Class Mailings Only; 122.63f, Optional State Distribution Center (SDC) Labeling List for Mailer Prepared Second-Class Publications (*Postal Bulletin* 21668, 4-14-88; effective 5-7-88); 122.63h, Optional State Distribution Center (SDC) Labeling List for Mailer Prepared Third- and Fourth-Class Irregular Parcels: 122.63k, State Labeling List for Mailer Prepared Third- and Fourth-Class Irregular Parcels; 122.63l, Bulk Mail Center (BMC) Labeling List for Mailer-Prepared Bulk Rate Third- and Fourth-Class Machinable Parcel Mailings; 122.63p, Originating Mixed States Labeling List for Mailer Prepared Second-Class Publications; 122.63q, Originating Mixed States Labeling List for Mailer Prepared Third-Class Letter and Third- and Fourth-Class Flat Size Mail; and 122.63r, Originating Mixed States Labeling List for Mailer Prepared Third- and Fourth-Class Irregular Parcels. The new or changed listings appear in bold type. Mandatory date for compliance with the change from Glen Falls NY 128 to Mixed Albany 120 is July 2, 1988. See *Postal Bulletin* (PB) 21672, 5-12-88. Changes in 122.63e and 122.63q that appear in PB 21672, 5-12-88, became mandatory June 4, 1988. Changes in Exhibits 122.63h, k, l, p, q, and r that appear in PB 21673, 5-19-88, become mandatory August 27, 1988.

In section 123.5, *Sexually Oriented Advertisements,* 123.57, *Disposal of Application for Listing,* is revised to delete the requirement that the Forms 2201, *Application for Listing Pursuant to 39 U.S.C. 3010,* themselves be retained for five years provided the information on the forms is entered into a computer data bank where it will be kept for that period of time.

Section 124.55, *Switchblade and Ballistic Knives.* DMM 124.552 requires a postmaster, before making delivery of a parcel containing switchblade and ballistic knives, to satisfy himself that the addressee is within one of the groups permitted to receive such a parcel. However, previously DMM 124.56 prohibited any markings on a parcel containing firearms or switchblade and ballistic knives to indicate its contents. To resolve this dilemma. 124.552 is changed to require a postmaster who *has knowledge* that a parcel contains the above items, to satisfy himself that the addressee is permitted to receive the parcel. The change imposes the same obligation on the carrier responsible for delivery to the addressee. Changes are also made to 124.553 to clarify that a written statement on mailability cannot be required of a mailer but only requested, and only of mail not sealed against inspection. Mail sealed against inspection cannot be detained.

In part 154, *Plant Load Operations,* section 154.625a, *Highway Transportation Trailers,* is revised to provide that reimbursement for each highway transportation trailer will be equal to the actual daily cost to the Postal Service to lease the trailer, times the number of detention periods determined per 154.625. Sections 154.142, and 154.143 are revised for language consistency and 154.271 is revised to update a position title (PB 21672, 5–12–88).

Sections 490, 690 and 790, ancillary services for second-, third-, and fourth-class mail, are revised by the addition of a section (495, new 693, and 795) to clarify forwarding and return treatment instructions for pieces in these classes of mail that have mail of a higher class enclosed or attached in accordance with section 136, *Mixed Classes of Mail* (PB 21672, 5–12–88).

Section 494, *Refunds for Duplicate Notices,* is added to clarify Postal Service policy concerning the circumstances under which fees will be refunded for duplicate address correction notices sent to publishers of second-class publications. Publishers of second-class publications may receive a refund of fees paid for duplicate address correction notices in two types of situations. First, for publishers participating in Address Change Service (ACS), a refund is authorized when a publisher receives duplicate tape notices. Second, a refund is authroized for fees paid for duplicate notices provided by a computerized Forwarding System/Central Mark-Up Unit (CFS/CMU) on Forms 3579, Undeliverable Second-, Third- and Fourth-Class Matter. To be eligible for a refund of fees, publishers must submit documentation that substantiates the number of duplicate notices received (PB 21672, 5–12–88).

In section 642.13, *Authorization at Additional Offices,* previous section 642.134 has been deleted. No need is seen now to require a mailer to submit a sample copy of third-class material being mailed at special rates solely because it is mailed from an office authorized pursuant to the procedures in 642.13. Deletion of this requirement complies with 642.11 and 642.12.

Section 642.42, *Record of Postage Paid,* is revised to state clearly that mailings made at the regular bulk third-class rates while an application for special bulk rates is pending may be eligible for a refund of the difference between the amount paid at the regular rates and the amount due at the special rates regardless of the method used to pay postage. Postage for such mailings may be paid by any means available for the payment of postage on bulk third-class mailings, including permit imprints, precanceled stamps, or meter stamps (PB 21672, 5–12–88).

Section 694, *Address Correction* (for third-class mail), is revised to provide post offices with the option of weighing large quantities of identical weight third-class pieces to determine the number of pieces subject to the address correction fee, if the pieces (a) originate from a single mailer, and (b) bear only the *Address Correction Requested* endorsement.

Section 723.3, *Enclosures* (mailed with bulk bound printed matter) is revised to allow samples of merchandise enclosed with bound printed matter to be identified as "free gifts" where it is clear that they are being offered to the addressee in a marketing effort to encourage the sale of the gift products. The marketing effort may also promote the sale of bound printed matter. Samples of merchandise must comprise only an incidental portion of each bound printed matter mailpiece (PB 21672, 5–12–88).

Section 941, *Money Orders,* is revised to retain the restriction instituted in August 1987, that imposed a $10,000 per day limit on the amount of money orders one person can purchase. The Postal Service, in cooperation with the Department of the Treasury, is participating in the broad federal effort to curb illegal drug activity through all reasonable means, including making it more difficult to convert ("launder") the cash proceeds from drug sales into apparently legitimate financial accounts and instruments. The purchase limit applies on a daily basis to each postal customer whether the purchases are made at one time or throughout the day, regardless of the postal facility or facilities used. There are no exceptions to this restriction (PB 21672, 5–12–88).

Minor, nonsubstantive changes include: 122.141; 122.142 (title); 122.143; 149.333d2; 149.343b3; 149.441a4b; 149.442a1; 149.81; 159.431; 296.11; 296.32; 367.232; 452.1f; 452.2; 464.32b; 492.3; 622.164; 667.132; 763.22; 767.224.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. In consideration of the foregoing, the table at the end of § 111.3(e) is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

Transmittal letter for issue	Dated	Federal Register publication
27	June 19, 1988	53 FR—

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 88–13056 Filed 6–9–88; 8:45 am]

BILLING CODE 7710–12–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–38

[FPMR Temp. Reg. G–48, Supp. 2]

Federal Motor Vehicle Expenditure Control

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: FPMR Temp. Reg. G–48, dated August 6, 1986, established policy, procedures, and reporting requirements concerning the implementation of Title XV, Subtitle C—Federal Motor Vehicle Expenditure Control, Pub. L. 99–272, Consoldiated Omnibus Budget Reconciliation Act of 1985. This supplement extends the expiration date

of FPMR Temp. Reg. G–48 until June 30, 1990, unless sooner superseded or canceled. This supplement also announces the availability of a document entitled "Standardized Statements of Work for Fleet Management Services," which provides additional guidance to agencies that are required to perform fleet cost comparison studies mandated by the law and FPMR Temp. Reg. G–48. Other guidance documents pertaining to cost identification are currently under development and will be provided to the affected agencies when completed.

DATES: Effective date: June 10, 1988.

Expiration date: June 30, 1990.

Comment date: Comments must be received on or before July 15, 1988.

ADDRESS: Comments should be addressed to the General Services Administration (FBF), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: William T. Rivers, Fleet Management Division (703) 557–8276.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this is not a major rule for the purposes 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. Therefore, a Regulatory Impact Analysis has not been prepared. 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.

List of Subjects in 41 CFR Part 101–38

Government property management, Motor vehicles.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter G to read as follows:

Federal Property Management Regulations, Temporary Regulation G–48, Supplement 2

May 13, 1988.

To: Heads of Federal agencies.

Subject: Federal motor vehicle expenditure control.

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation G–48. It also advises affected agencies of the availability of additional guidance for the performance of motor vehicle cost comparison studies.

2. *Effective date.* This supplement is effective upon publication in the Federal Register.

3. *Expiration date.* This supplement expires June 30, 1990, unless sooner superseded or canceled.

4. *Background.* FPMR Temp. Reg. G–48, dated August 6, 1986, implemented the provisions of Title XV, Subtitle C—Federal Motor Vehicle Expenditure Control, Pub. L. 99–272, Consolidated Omnibus Budget Reconciliation Act of 1985. The law and the regulation require agencies which operate 300 or more motor vehicles to take several actions regarding their motor vehicle operations and activities. Guidance for some of those required actions is still being devloped. It is expected that completion of all required actions by the affected agencies may take up to 2 years. Therefore, it is necessary to extend the expiration date until June 30, 1990.

5. *Explanation of changes.*

a. The expiration date in par. 3 of FPMR Temp. Reg. G–48 is revised to June 30, 1990.

b. Agencies subject to FPMR Temp. Reg. G–48 are required to perform comprehensive and detailed studies comparing the cost of their motor vehicle fleet operations with other alternatives. An accurate statement of work (SOW) is needed for those agencies to prepare a solicitation for their fleet needs and perform valid cost comparisons. To assist the agencies in developing their SOWs, GSA awarded a consultant contract for developing a standardized SOW for each of the basic fleet management functions. The contractor was required to consider both the Government's program needs and the capabilities of the private sector so that commercial competition would be fostered as much as possible. The final product of that contract is a document entitled "Standardized Statements of Work for Fleet Management Services." Copies of that document have been furnished to the designated fleet managers of the affected agencies. Use of the standardized SOW by those agencies is optional.

(1) The contractor-provided SOW is generic in nature. Using agencies may tailor the SOW to meet their specific fleet needs. The SOW is intended to provide guidance and to serve as a building block for an agency solicitation. The initiating agency's contracting officer and motor vehicle management staff must make all final decisions regarding the format, scope, and specific clauses to be used in their soliciation.

(2) Additional guidance concerning cost elements to be considered for the performance of the cost comparison studies, as well as for the establishment and operation of cost accounting systems, is also being developed. As those documents are completed, copies will be provided automatically to the affected agencies.

6. *Agency comments.* Comments or inquiries concerning the impact of this regulation should be submitted to the General Services Administration (FBF), Washington, DC 20406, not later than July 15, 1988, for consideration and possible incorporation into a permanent regulation.

John Alderson,

Acting Administrator of General Services.

[FR Doc. 88–13040 Filed 6–9–88; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 15

[CGD 87–017]

Assistance Towing Licenses; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard is correcting an error in the preamble previously published in the Federal Register May 24, 1988 (53 FR 18559).

FOR FURTHER INFORMATION CONTACT: Lcdr. G. R. Kaminski, Office of Marine Safety, Security, and Environmental Protection (G–MVP). Phone (202) 267–0218.

SUPPLEMENTARY INFORMATION: This notice corrects a citation in the preamble which appeared in the Federal Register on May 24, 1988 (53 FR 18559). On page 18562, column 1, paragraph 4, the last sentence is corrected to read: The OMB approval numbers are listed in 46 CFR 10.107.

Dated: June 3, 1988.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 88–13027 Filed 6–9–88; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[FCC 88–168]

Amateur Radio Service; Amendment of the Amateur Service Rules To Change the Identification Procedure for Amateur Stations Operated by Aliens Holding Reciprocal Permits

AGENCY: Federal Communications Commission.

ACTION: Rule amendment.

SUMMARY: The rule amendment adopted herein requires that stations operated by aliens under reciprocal permits shall

transmit the alien's home call sign, preceded by the appropriate letter-numeral designating the station location, separated by the slant mark "/" or by the word "stroke" or "slash" during radiotelephone operations. The rule change is necessary in order to conform to the internationally recognized format. The effect of the amendment is uniformity in station identification by aliens.

EFFECTIVE DATE: July 18, 1988.

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

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Washington, DC 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION: .

Order

Adopted: May 9, 1988.
Released: May 24, 1988.

By the Commission:

In the matter of Amendment of § 97.313 of the Commission's Rules Concerning Identification Procedure for Amateur Stations Operating Under a Reciprocal Permit.

1. On May 14, 1987, The American Radio Relay League, Inc. (ARRL) filed a petition to amend § 97.313 of the Commission's Rules, 47 CFR 97.313. ARRL proposes that the order in which the information is given in the station identification procedure for amateur stations operated by aliens under reciprocal permits be reversed. Currently, the rules require that the call sign issued by the alien's country be transmitted first, followed by the United States prefix letter and station location. ARRL states that its request is based on an International Amateur Radio Union (IARU) resolution to standardize call sign identification for stations operating under reciprocal agreements. Additionally, ARRL indicates that the United Kingdom, France, the Federal Republic of Germany and Switzerland have already implemented the IARU recommended standard.

2. We agree with ARRL that it is in the public interest to conform amateur station identification procedures to the IARU recommended standard. This minor change in procedure will have no adverse impact on the amateur community, and, in fact, will conform our Rules to the internationally recognized format. Therefore, we are amending § 97.313 as requested by ARRL. In addition, this *Order* authorizes the Chief, Private Radio Bureau to amend the amateur service rules to require the same station identification procedure for Canadian amateur stations operating in the United States, if the existing bilateral agreement with Canada is revised to permit such procedure. *See* the Convention Between the United States and Canada Relating to the Operation by Citizens of Either Country of Certain Radio Equipment or Stations in the Other Country (T.I.A.S. No. 2508).

3. In accordance with section 605 of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, the Commission certifies that this rule amendment will not have a significant economic impact on a substantial number of small entities because such entities may not use the amateur radio service for commercial radiocommunications. *See* § 97.3(b) of the Commission's Rules, 47 CFR 97.3(b).

4. The amendment contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure or record retention requirements; and will not increase or decrease burden hours imposed on the public.

5. Because the substantive change in the rules made herein is of minor effect involving merely a reversal of the order in which station identification information is given, we find good cause to dispense with the prior notice and comment procedure of the Administrative Procedure Act. *See* section 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(B).

6. In view of the foregoing, *It is ordered*, pursuant to the authority contained in 47 U.S.C. 154(i) and 303(r), that the petition of *ARRL is granted* and Part 97 of the Commission's Rules *Is amended* as set forth below, effective July 18, 1988.

7. A copy of this Order will be forwarded to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 97

Aliens, Call Signs, Amateur radio, Radio.

Federal Communications Commission.
H. Walker Feaster III,
Acting Secretary.

Appendix

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read, as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. Section 97.313 is revised to read as follows:

§ 97.313 Station identification.

When the station is operated under a reciprocal permit, the call sign transmitted in the identification procedure must be that issued to the station by the licensing country, preceded by the appropriate letter-numeral designating the station location, separated by the slant mark "/" or by the word "stroke" or "slash" during radiotelephone operations. At least once during each intercommunication, the identification announcement must include the geographical location as nearly as possible by city and state, commonwealth or possession, stated in the English language.

[FR Doc. 88–12833 Filed 6–9–88; 8:45 am]
BILLING CODE 6712–01–M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 519

[Acquisition Cir. AC–87–3, Supp. 1]

Monitoring Contractor Compliance With Subcontracting Plans

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement to the General Services Administration Acquisition Regulation, Acquisition Circular AC–87–3 extends the expiration date to June 16, 1989. The intended effect is to extend the policies and procedures established in AC–87–3, which revised Part 519 of the regulation to provide uniform procedures for monitoring contractor compliance with subcontracting plans and for reporting actions under section 211 of Pub. L. 95–507.

DATES:
Effective date: June 17, 1988.
Expiration date: June 16, 1989.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott, Office of GSA Acquisition Policy and Regulations, (VP), (202) 523–4765.

SUPPLEMENTARY INFORMATION: This rule was not published for public comment because it has no impact beyond the internal operations of the agency. The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from

Executive Order 12291. The exemption applies to this rule. The General Services Administration certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it relates to the internal operations of the agency. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 48 CFR Part 519

Government procurement.

PART 519—[AMENDED]

1. The authority citation for 48 CFR Part 519 continues to read as follows:

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

2. 48 CFR Part 519 is amended by the following supplement to Acquisition Circular AC–87–3.

GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION ACQUISITION CIRCULAR AC–87–3; SUPPLEMENT 1

May 31, 1988.

To: All GSA contracting activities.

Subject: Monitoring contractor compliance with subcontracting plans.

1. *Purpose.* This supplement extends the expiration date of the General Services Administration Acquisition Regulation (GSAR) Acquisition Circular AC–87–3.

2. *Effective date.* June 17, 1988.

3. *Expiration date.* Acquisition Circular AC–87–3 and this supplement will expire on June 16, 1989, unless canceled earlier.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 88–13039 Filed 6–9–88; 8:45 am]

BILLING CODE 6820–61–M

Proposed Rules

Federal Register
Vol. 53, No. 112
Friday, June 10, 1988

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1001, 1002, and 1004

[Docket Nos. AO-14-A62, AO-71-A77 and AO-160-A65; AMS-88-105]

Milk in the New England, New York-New Jersey and Middle Atlantic Marketing Areas; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals to amend the New England, New York-New Jersey and Middle Atlantic Federal milk orders. One group of proposals would establish the same classification scheme and fluid milk products definition under all three orders. Proponents claim that these changes are necessary to assure that regulated handlers operating throughout the region will pay the same price for milk used in the same manner under the respective orders. Another proposal would replace the present seasonal "take-out/pay-back" plan for paying producers with a seasonal base-excess payment plan under the New England and New York-New Jersey orders. Proponents contend that the current seasonal payment plan does not provide an appropriate incentive to producers to level out seasonal fluctuations in their milk production patterns.

Other proposals submitted that will be considered at the hearing deal with only an individual order. One of the proposals that will be heard at the hearing would reimburse New York-New Jersey handlers for some of the extra costs involved in supplying Class I milk to New York City metropolitan handlers. Still other proposals would increase transportation differentials under the New York-New Jersey order which is needed, according to proponents, to offset rising costs of transporting milk.

Other proposals that will be considered, most of which are technical in nature, related to shipping requirements for plants and bulk tank units, how much milk may be moved off the market and still be priced under the order and the location at which such milk is priced and the dates when handlers are required to pay producers.

DATES: The hearing will convene at 1:30 p.m. local time, on June 27, 1988, and at 1:30 p.m. local time on July 11, 1988.

ADDRESSES: The hearing will be held at the Holiday Inn-Fairgrounds, State Fair Boulevard & Farrell Road (New York State Thruway—Exit 39), Syracuse, New York 13209, (315) 457-8700, on June 27, 1988, and at the Center of New Hampshire-Holiday Inn, 700 Elm Street, Manchester, New Hampshire 03101, (603) 625-1000, on July 11, 1988.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Holiday Inn-Fairgrounds, State Fair Boulevard & Farrell Road (New York State Thruway—Exit 39), Syracuse, New York 13209, beginning at 1:30 p.m. local time, on June 27, 1988, with an additional session also to be held at the Center of New Hampshire-Holiday Inn, 700 Elm Street, Manchester, New Hampshire 03101, beginning at 1:30 p.m. local time, on July 11, 1988, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New England, New York-New Jersey and Middle Atlantic marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Parts 1001, 1002 and 1004

Milk marketing orders, Milk Dairy products.

The authority citation for 7 CFR Parts 1001, 1002 and 1004 continues to read as follows:

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

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposals That Would Amend All Three Orders

Proposed by Agri-Mark, Dairylea Cooperative, Inc., Eastern Milk Producers Cooperative Association, and Pennmarva Dairymen's Federation

Proposal No. 1

This proposal would provide for a uniform "Fluid milk product" definition by revising §§ 1001.17, 1002.15 and 1004.15 in their entirety to read as follows:

Section 1001.17 (and the same for §§ 1002.15 and 1004.15) Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means all skim milk and butterfat in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, any mixture of cream, milk or skim milk containing less than 10% butterfat, milkshake and ice milk mixes containing less than 20 percent total solids and any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in consumer-type packages), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), whey, eggnog, yogurt, milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, pancake mixes, buttermilk biscuit mixes, whipped topping mixtures, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, or aseptically packaged and hermetically sealed in foil-lined paper containers, any product which contains 6 percent or more nonmilk fat (or oil), and any product that contains by weight less than 6.5 percent nonfat milk solids; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Proposed By Agri-Mark and Eastern Milk Producers Cooperative Association:

Proposal No. 2

This proposal would provide for a uniform "Fluid cream product" definition by revising §§ 1001.18 and 1004.16 and adding a new § 1002.15a to read as follows:

Section 1001.18 (the same for §§ 1002.15a and 1004.16) Fluid cream product.

"Fluid cream product" means cream (including aerated cream and sterilized cream) or any mixture (including a cultured mixture) of cream and milk or skim milk containing not less than 10 percent butterfat. The term also includes sour cream, frozen cream, fortified cream, reconstituted cream and any mixture of milk or skimmed milk and cream containing 10 percent or more butterfat, with or without the addition of other ingredients.

Proposal No. 3

This proposal would provide for a uniform "Classes of utilization" section by revising §§ 1001.40, 1002.41 and 1004.40 to read as follows:

Section 1001.40 (and the same for 1002.41 and 1004.40) Classes of utilization.

* * * * *

(a) (and (b) for § 1002.41) *Class I milk.* (conforming changes only).

(b) ((c) for § 1002.41) *Class II milk.* Except as provided in paragraph (c) ((d) for § 1002.41) of this section, Class II milk shall include all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) ((d) for § 1002.41) of this section;

(2) In packaged inventory at the end of the month of products specified in paragraph (b)(1) ((c)(1) for § 1002.41) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Sour cream, sour cream products (e.g. dips);

(ii) Plastic cream, frozen cream, and anhydrous milkfat;

(iii) Cottage cheese (all forms);

(iv) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts and frozen dessert mixes.

(v) Any concentrated milk product in bulk form other than that specified in paragraph (c) ((d) for § 1002.41) of this section;

(vi) Custards, puddings, pancake mixes, and buttermilk biscuit mixes; and

(vii) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, or aseptically packaged and hermetically sealed in foil-lined paper containers.

(c) ((d) for § 1002.41) *Class III milk.* Class III milk shall include all skim milk and butterfat:

(1) Used to produce:

(i) Cheese, other than cottage cheese in any form;

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk form that is used to produce Class III products;

(v) Evaporated milk or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any other dairy product not otherwise specified in this section.

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form, and products specified in paragraph (b)(1) ((c)(1) for § 1002.41) of this section in bulk form;

(3) In fluid milk products, and products specified in paragraph (b)(1) ((c)(1) for § 1002.41) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) (c)(1) for § 1002.41) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition (of the respective order).

(d) In shrinkage assigned pursuant (to the respective order) to the receipts (specified in the appropriate assignment section of the respective order).

Proposal No. 4

This proposal would provide for a uniform "Class II price" by adding to §§ 1001.50, 1002.50a and 1004.50 a new paragraph (b) ((c) for § 1001.50a) defining the price for Class II milk and redesignating paragraph (b) as (c) defining the price for Class III milk (except in § 1002.50a redesignate (c) as (d)) to read as follows: § 1001.50 (and the same for §§ 1002.50a and 1004.50) Class prices.

* * * * *

(b) ((c) for 1002.50a) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to §§ 1001.51a, 1002.50b, and 1004.51a respectively (as proposed) for the month plus the amount that the value computed pursuant to paragraph (b)(1) ((c) (1) for

1002.50a) of this section exceeds the value computed pursuant to paragraph (b)(2) ((c)(2) for § 1002.50a) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to (§§ 1001.51, 1002.50, and 1004.51 respectively) and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) ((c)(1) for § 1002.50a) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed (as proposed below).

* * * * *

Proposed by Pennmarva Dairymen's Federation

Proposal No. 5

In §§ 1001.40, 1002.41 and 1004.40 revise paragraph (b) ((c) for § 1002.41) so as to uniformly classify all skim milk and butterfat required to be reported by a handler pursuant to the respective order as follows:

Section 1001.40 (and the same for §§ 1002.41 and 1004.40) Classes of utilization.

* * * * *

(b) ((c) for § 1002.41) *Class II milk.* Except as provided in paragraph (c) ((d) for § 1002.41) of this section, Class II milk shall include all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) ((d) for § 1002.41) of this section;

(2) In packaged inventory at the end of the month of products specified in paragraph (b)(1) ((c)(1) for § 1002.41) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Sour cream, sour cream products (e.g. dips);

(ii) Plastic cream, frozen cream, and anhydrous milkfat;

(iii) Cottage cheese (all forms) and all other cheese except natural cheddar cheese;

(iv) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids;

(v) Any concertrated milk product in bulk form other than that specified in paragraph (c) ((d) for § 1002.41) of this section;

(vi) Custards, puddings, pancake mixes, and buttermilk biscuit mixes; and

(vii) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, or aseptically packaged and hermetically sealed in foil-lined paper containers.

(viii) Any milk product in dry form other than nonfat dry milk powder;

(ix) Evaporated milk or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(x) Any other dairy product not otherwise specified in this section.

(c) ((d) for § 1002.41) *Class III milk.* Class III milk shall include all skim milk and butterfat:

(1) Used to produce:

(i) Natural cheddar cheese;

(ii) butter;

(iii) Nonfat dry milk powder;

(iv) Any concentrated milk product in bulk form that is used to produce Class III products;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form, and products specified in paragraph (b)(1) ((c)(1) for § 1002.41) of this section in bulk form;

(3) In fluid milk products, and products specified in paragraph (b)(1) ((c)(1) for § 1002.41) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) ((c)(1) for § 1002.41) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim in such product that was included within the fluid milk product definition (of the respective order).

(d) In shrinkage assigned pursuant (to the respective order) to the receipts (specified in the appropriate assignment section of the respective order).

Proposal No. 6

Add new §§ 1001.21, 1002.18, and 1004.21 to read as follows:

Section 1001.21 (same for 1002.18 and 1004.21) Product prices.

The prices specified in this section as computed and published by the Director of the Dairy Division, Agricultural Marketing Service, shall be used in calculating the basic Class II formula price pursuant to §§ 1001.51a, 1002.50b, and 1004.51a respectively (as proposed) and the term "work-day" as used herein shall mean each Monday through Friday that is not a national holiday.

(a) *Butter price.* "Butter price" means the simple average of the prices per pound of approved (92-score) butter on the Chicago Mercantile Exchange for the work-days during the first 15 days of the month, using the price reported each week as the price for the day of the report, and for each succeeding work-day until the next price is reported.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average for the work-days during the first 15 days of the month, of the prices per pound of cheddar cheese in 40-pound blocks on the National Cheese Exchange (Green Bay, WI). The price reported for each week shall be used as the price for the day on which reported, and for each succeeding work-day until the next price is reported.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average of the prices per pound of nonfat dry milk for the work-days during the first 15 days of the month computed as follows.

(1) Use the prices (using the midpoint of any price range as one price) reported each week for high heat, low heat and approved nonfat dry milk, respectively, for the Central States production area;

(2) Compute a simple average of the weekly prices for the three types of nonfat dry milk in paragraph (c)(1) of this section. Such average shall be the daily price for the day on which the prices were reported and for each preceding work-day until the day such prices were previously reported; and

(3) Add the prices determined in paragraph (c)(2) of this section for the work-days during the first 15 days of the month and compute the simple average thereof.

(d) *Edible whey price.* "Edible whey prices" means the simple average of the prices per pound of edible whey powder for the Central States production area for the work-days during the first 15 days of the month. The prices used shall be the price (using the midpoint of any price range as one price) reported each week as the daily price for the day on which reported, and for each preceding work-day until the day such price was previously reported.

Proposal No. 7

This proposal would provide for a uniform "Class II price" by adding to §§ 1001.50, 1002.50a and 1004.50 a new paragraph (b) ((c) for 1002.50a) defining the price for Class II milk, redesignating paragraph (b) as paragraph (c) ((c) as (d) for § 1002.50a) and revising and also adding a new paragraph (d) ((e) for § 1002.50a) to read as follows:

Section 1001.50 (and the same for §§ 1002.50a and 1004.50) Class prices.

* * * * *

(b) ((c) for § 1002.50a) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division, Agricultural Marketing Service, USDA, and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1001.51a, 1002.50b and 1004.51a respectively, (as proposed) for the month, adjusted pursuant to the monthly adjustments detailed in paragraph (d) of this section, plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price for the month.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices.

(c) ((d) for § 1002.50a) *Class III price.* The Class III price shall be the basic formula price for the month adjusted pursuant to the monthly adjustments detailed in paragraph (d) ((e) for § 1002.50a) of this section.

(d) ((e) for § 1002.50a) The "basic formula price" and "basic Class II formula price" shall be adjusted each month, as follows:

Month	Orders 1&2	Order 4
January	$0.03	$0.05
February	.02	.04
March	−.05	−.03
April	−.09	−.07
May	−.12	−.10
June	−.11	−.09
July	.03	.05
August	.10	.12
September	.06	.08
October	.06	.08
November	.06	.08
December	.06	.08

Revise §§ 1001.54, 1002.22(m)(1) and 1004.53 to provide for a uniform public announcement of prices by the market administrator as follows:

1. The market administrator shall announce publicly on or before the 5th day of each month, the Class I price for the following month (for Order 2 only, at the 201–210 and 1–10 mile zones).

2. The market administrator shall announce publicly on or before the 15th day of each month, the tentative Class II price for the following month (for Order 2 only, at the 201–210 and 1–10 mile zones).

3. The market administrator shall announce publicly on or before the 5th day after the end of each month, the Class III price (for Order 2 only, at the 201–210 and 1–10 mile zones), and the final Class II price for such month (for Order 2 only, at the 201–210 and 1–10 mile zones).

4. The market administrator shall announce publicly on or before the 5th day after the end of each month (for Order 2 and 4 only) the producer butterfat differential for the preceding month.

Proposed by Agri-mark, Eastern Milk Producers Cooperative Association, and Pennmarva Dairymen's Federation

Proposal No. 9

This proposal would add a uniform "Basic Class II formula price" section to orders 1001, 1002, and 1004 as follows:

Section 1001.51a (and the same for 1002.50b and 1004.51a) Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1001.51 (and §§ 1002.50 and 1004.51 respectively) for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to §§ 1001.21, 1002.18, and 1004.21 respectively (as proposed by Pennmarva) and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraphs (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per

hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

Proposals Amending Orders 1 and 2

Proposed by the Dairy Institute of New York

Proposal No. 10

In § 1002.27 Suspension and cancellation of designation, revise the introductory text of paragraph (g) and add a new paragraph (k) to read as follows:

Section 1002.27 Suspension and cancellation of designation.

* * * * *

(g) Except as provided by paragraph (k) of this section, no pool plant or pool unit designation shall be suspended or cancelled for failure to meet the requirements of § 1002.26(a) except under the following conditions:

* * * * *

(k) The designation of any pool plant pursuant to § 1002.24 or any pool unit pursuant to § 1002.25(e) shall be cancelled unless 15 percent or more of the producer milk received at such plant or unit during any of the months of August, December and January and 25 percent during the months of September through November is utilized as Class I–A milk.

Proposal No. 11

This proposal would provide for uniform shipping requirements for the New England and New York-New Jersey orders by changing either proposed paragraph (k) of § 1002.27 or § 1001.5b(b), whichever the Secretary deems to be more appropriate.

Proposed by Agri-Mark, Dairylea Cooperative, Inc. and Eastern Milk Producers Cooperative Association

The following proposals would replace the "Louisville" type seasonal production incentive plan of the New England and New York-New Jersey orders with a seasonal base-excess plan as follows:

Proposal No. 12

Add a new "BASE-EXCESS PLAN" section in its entirety to Orders 1001 and 1002 as follows:

Section 1001.90 (and the same for § 1002.92) Base milk.

"Base milk" means milk received from a producer by a pool handler which is not in excess of such producer's daily base computed pursuant to § 1001.92 (or § 1002.94) multiplied by the number of days in such month on which such producer's milk was so received: Provided, That with respect to any producer on every-other-day delivery, the day of nondelivery prior to a day of delivery, although such prior day is in the preceding month, shall be considered as a day of delivery for purposes of this paragraph.

Section 1001.91 (and the same for § 1002.93) Excess milk.

"Excess milk" means milk received from a producer by a pool handler which is in excess of base milk received from such producer during the month.

Section 1001.92 (and the same for § 1002.94) Computation of base for each producer.

For the months of January through July and December of each year, the market administrator shall compute, subject to the rules set forth in § 1001.93 (or § 1002.95), a base for each producer described in paragraphs (a) through (d) of this section by dividing the applciable quantity of milk receipts specified in such paragraph by 122 less the number of days, if any, during the applicable base-forming period of August through November for which it is shown that the day's production of milk of such producer was not received by a pool handler as described in the applicable paragraphs (a) through (d) of this section under which such producer's base is computed: Provided, That in no event shall the number of days used to compute a producer's base pursuant to this section be less than 90.

(a) For any producer, except as provided in paragraphs (b) through (d) of this section, the quantity of milk receipts shall be the total pounds of producer milk received by all pool handlers from such producer during the preceding months of August thorugh November.

(b) For any producer whose milk was received during the preceding August through November period at a plant which became a pool plant due to route disposition in the marketing area during or after such August through November period, the quantity of milk receipts shall be the total pounds of milk received from such dairy farmer during such August through November period by pool handlers as producer milk and at such plant as a nonpool plant.

(c) For any producer who was a producer under Orders 1, 2 or 4 for a minimum of 90 days during the months of August through November, the quantity of milk receipts shall be the total pounds of milk received from such dairy farmer by pool handlers under those orders throughout the August through November period.

(d) Any producer who made no qualifying milk deliveries during the base-forming period of August through November shall have a base, and any other producer shall have a floor under this base, reflecting the percentage of his average daily deliveries of producer milk each month as set forth in the following table. A new base is earned on the basis of his milk deliveries during the subsequent August through November period.

Month:	*Percentage of production as base*
January and February	70
March through June	60
July	70
December	70

Section 1001.93 (and the same for § 1002.95) Base rules.

The following rules shall apply in connection with the establishment of bases:

(a) A base computed pursuant to paragraphs (a) through (d) of § 1001.92 (or § 1002.94) shall be effective for the subsequent months of January through July, inclusive, and December.

(b) A base computed pursuant to paragraphs (a) through (d) of § 1001.92 (or § 1002.94) may be transferred only in its entirety to another dairy farmer and only upon discontinuance of milk production because of the entry into military service of the baseholder.

(c) Base transfers shall be accomplished only through written application to the market administrator on forms prescribed by the market administrator and shall be signed by the baseholder and by the person to whom such base is to be transferred: Provided, That if a base is held jointly, except as provided in paragraph (e) of this section, the entire base only is transferable and only upon receipt of such application signed by all joint holders.

(d) If a producer operates more than one farm he shall establish a separate base with respect to producer milk delivered from each such farm: Provided, That if such farms and herds are combined into one dairy farm, the separate bases may be combined into one base subject to approval of the market administrator.

(e) Only one base shall be allocated with respect to milk produced by one or more persons where a dairy farm is jointly owned or operated: Provided, That in the case of a base established

jointly, if a copy of the partnership agreement setting forth as a percentage of the total interest of the partners in the base is filed with the market administrator before the end of the base-forming period, then upon termination of the partnership agreement each partner will be entitled to his stated share of the base to hold in his own right or to transfer in conformity with the provisions of paragraph (b) or (c) of this section (including transfer to a partneship of which he is a member). Such termination of partnership shall become effective as of the end of any month during which an application for such division of base signed by each member of such partnership is received by the market administrator.

(f) Two or more producers with bases may combine such bases upon the formation of a bonafide partnership operating from one farm. Such a combination shall be considered a joint base under paragraph (e) of this section.

(g) Subject to approval by the market administrator, the name of the baseholder may be changed to that of another member of the baseholder's immediate family but only under circumstances where the base would be applicable to milk production from the same herd and on the same farm.

Section 1001.95 (and the same for § 1002.97) Announcement of base.

On or before January 1 of each year, the market administrator shall notify each producer, the handler receiving his milk, and the cooperative association of which he is a member, of the daily base established by such producer.

Proposal No. 13

Revise the first sentence of the introductory text of § 1001.52 Plant location adjustments, to read as follows:

Section 1001.52 Plant location adjustments.

The Class I, base, excess and blended prices computed under §§ 1001.50 and 1001.61 shall be subject to plant location adjustments based upon the zone locations of plants.* * *

* * * * *

Proposal No. 14

In §§ 1001.61 and 1002.71, remove paragraphs (c) and (d); designate the introductory text as paragraph (a); redesignate paragraph (a) as (1), paragraph (b) as (2), (for § 1002.71 only (b–1) as (2–a)), paragraph (e) as (3), paragraph (f) as (4), and paragraph (g) as (5); and add new paragraphs (b) and (c) to read as follows:

Section 1001.61 Computation of basic blended price, excess milk price and base milk price. (and the same for § 1002.71 Computation of the uniform price, excess milk price and base milk price.)

* * * * *

(b) The excess milk price for milk of 3.5 percent butterfat content applicable to plants located in Zone 21 (the 201–210 mile zone), for the months of January through July and December, will be the basic blended price minus $1.00.

(c) The base milk price for milk of 3.5 percent butterfat content applicable to plants located in Zone 21 (the 201–210 mile zone), for the months of January through July and December will be computed as follows:

(1) Compute the total volume of base and excess milk for all handlers included in the computations pursuant to paragraph (a) of this section.

(2) Compute the aggregate value of the difference between the basic blended price and the excess milk price by multiplying the hundredweight of excess milk computed in (1) of this paragraph by $1.00.

(3) Compute the base milk price by dividing the aggregate value computed in (2) of this paragraph by the hundredweight of base milk computed in (1) of this paragraph and add the result to the basic blended price.

Proposal No. 15

In § 1001.62 Announcement of blended prices and butterfat differential, revise paragraph (b) to read as follows:

Section 1001.62 Announcement of blended prices and butterfat differential.

* * * * *

(b) The 13th day after the end of each month the zone, blended, base and excess prices for the months of January through July and December or the zone blended prices for the months of August through November resulting from the adjustment of the blended, base and excess prices for such month, as computed under § 1001.61, by the location adjustments set forth in § 1001.52.

Proposal No. 16

In § 1001.71 Handlers' producer-settlement fund debits and credits, revise paragraph (a) as follows:

Section 1001.71 Handlers' producer-settlement fund debits and credits.

* * * * *

(a) * * *

(1) Compute the sum of the following amounts:

(i) The product obtained by multiplying the quantity of pool milk by the basic blended, base, and excess prices computed under § 1001.61 adjusted by any location adjustments applicable under §§ 1001.52 and 1001.53; and

(ii) The product obtained by multiplying the quantities of fluid milk products received at the pool plant from cooperative associations in their capacity as handlers under § 1001.9(d) by the basic blended price as computed under § 1001.61 adjusted by any location adjustments applicable under §§ 1001.52 and 1001.53.

(2) For any cooperative association in its capacity as a handler under § 1001.9(d) multiply the quantities of milk moved to each pool plant by the basic blended, base and excess prices computed under § 1001.61 adjusted by any location adjustments applicable under §§ 1001.52 and 1001.53; and to the result add the value determined under § 1001.60.

* * * * *

Proposal No. 17

In § 1001.73 Payments to producers, revise paragraph (b) to read as follows:

Section 1001.73 Payments to producers.

* * * * *

(b) On or before the 20th day after the end of the month, each handler shall make final payment to each producer for the total value of milk received from him during the month at:

(1) For the months of August through November not less than the basic blended price per hundredweight computed under § 1001.61 (a) adjusted by the location adjustment applicable under 1001.52 and 1001.53 and the butterfat differential applicable under § 1001.76, minus the amount of the payment made to the producer under paragraph (a) of this section.

(2) For the months of January through July and December, not less than the base milk price computed pursuant to § 1001.61(c) with respect to base milk received from such producer and not less than the excess milk price computed pursuant to § 1001.61(b) with respect to excess milk received from such producer with both prices adjusted by the location adjustment applicable under §§ 1001.52 and 1001.53 and the butterfat differential applicable under § 1001.76 minus the amount of payment made to the producer under paragraph (a) of this section.

(3) If the handler has not received full payment from the market administrator under § 1001.72(b) by the date payments are due under this paragraph, he may reduce pro rata his payments to producers by an amount not to exceed

such underpayment. Such payments shall be completed after receipt of the balance due from the market administrator by the next following date for making payments under this paragraph.

* * * * *

Proposal No. 18

In § 1002.22 Additional duties of the market administrator, revise paragraph (m)(2) to read as follows:

Section 1002.22 Additional duties of the market administrator.

* * * * *

(m) * * *

(2) The 15th day of each month, the uniform, base and excess prices for the months of January through July and December or the uniform price for the months of August through November pursuant to § 1002.71 applicable at the 201–210 mile zone and at the 1–10 mile zone pursuant to § 1002.82.

* * * * *

Proposal No. 19

In § 1002.87 Handler's pool debit or credit, revise the introductory text and paragraph (a)(1) by changing the words "uniform price" to read "uniform, base and excess prices".

Proposal No. 20

In § 1002.80 Time and rate of payments, the introductory text of paragraph (a) is revised to read as follows:

Section 1002.80 Time and rate of payments.

(a) On or before the 25th day of each month each handler shall make payment, pursuant to paragraphs (b), (c), (d), (e) and (f) of this section, to each producer for all pool milk delivered by such producer during the months of August through November at not less than the uniform price computed pursuant to § 1002.71(a) and during the months of January through July and December at not less than the base milk price computed pursuant to § 1002.71(c) with respect to base milk received from such producer or the excess milk price computed pursuant to § 1002.71(b) with respect to excess milk received from such producer, subject to the following adjustments:

* * * * *

Proposed by Pennmarva

Proposal No. 21

In proposed § 1002.94 Computation of base for each producer, add the following paragraph (c) in lieu of that proposed by Agri-Mark, Dairylea and Eastern to read as follows:

Section 1002.94 Computation of base for each producer.

* * * * *

(c) For any producer who on August 1 was an Order 4 (Middle Atlantic) producer and who held such status in all or part of the two months of August and September and who otherwise was a producer only under this part for all of the remaining August through November period, the quantity of milk receipts shall be the total pounds of milk received from such dairy farmer by pool handlers under both orders throughout the August-November period.

* * * * *

Proposed by Canajoharie Cooperative Milk Producers, Inc.

Proposal No. 22

This proposal would revise § 1001.61 Computation of basic blended price, paragraphs (c) and (d) and § 1002.71 Computation of the uniform price, paragraphs (c) and (d) by increasing the takeout/payback amounts to be equal to the same percentage of the blend prices that prevailed at the time the seasonal plan first became effective.

Proposal No. 23

This proposal would revise § 1001.75 Statements to producers, and § 1002.80 Time and rate of payments, by adding a paragraph that would require handlers to furnish producers with the takout/payback rate at the time that final payment is made.

Proposals Amending Order 1 Only

Proposed by the National Farmers Organization, Inc.

Proposal No. 24

In § 1001.5b Supply plant, revise paragraph (b) by reducing the required shipping percentages from "15" percent to "10" percent in the months of August and December, and from "25" percent to "15" percent in the months of September through November, and provide the Director of the Dairy Division or the market administrator the authority to increase the shipping requirements from the proposed levels to the present levels if marketing conditions require additional deliveries to pool plants.

Proposal No. 25

In § 1001.15 Diverted milk, revise paragraph (c) by increasing the diversion limitation from "35" percent to "50" percent in the months of September through November, and from "45" percent to "60" percent in other months, and provide the Director of the Dairy Division or the market administrator the authority to decrease the diversion percentages allowed from the proposed levels to the present levels if marketing conditions require additional deliveries to pool plants.

Proposed by Brookside Farm Dairy

The following proposals would eliminate the requirement that milk purchased from a pool plant by a producer-handler must be physically unloaded and reloaded at the pool plant.

Proposal No. 26

In § 1001.10 Producer-handler, revise the first sentence of paragraph (d) to read as follows:

Section 1001.10 Producer handler.

* * * * *

(d) The producer-handler receives no fluid milk products except from such handler's own production and from pool plants either by transfer or diversion pursuant to § 1001.15.

* * * * *

Proposal No. 27

In § 1001.15 Diverted milk, revise paragraphs (a) and (b) by removing the words "that is not a plant of a producer-handler".

Proposed by Agri-Mark

Proposal No. 28

In § 1001.32 Reports regarding individual producers and dairy farmers, revise paragraph (c) by replacing the number "10" with "5".

Proposal No. 29

Revise § 1001.78 in its entirely to read as follows:

Section 1001.78 Charges on over due accounts.

Any producer—settlement fund account balance due from or to a handler under §§ 1001.72, 1001.77, or 1001.78, for which remittance has not been received in or paid from the market administrator's office by the close of business on the 20th day of any month, shall be increased one percent effective the following day.

Proposed by Eastern Connecticut Dairy Committee

Proposal No. 30

Revise § 1001.40 Classes of utilization, to provide for a three class classification scheme as follows:

1. Class I: no change

2. Class II: all current Class II products except those manufactured to balance markets, or butter, powder and cheddar cheese.

3. Class III. butter, powder and chedder cheese.

Proposal No. 31

Revise § 1001.50 Class prices, to provide a price for the proposed Class II products that would more accurately reflect their true value to the processor (i.e., a price that would be higher than the present Class II price).

Proposal by Marcus Dairy, Inc.

Proposal No. 32

In § 1001.52 Plant location adjustments, revise paragraph (a)(4)(i) through the first comma and add a new paragraph (a)(6) to read as follows:

Section 1001.52 Plant location adjustments.

* * * * *

(a) * * *

(4) * * *

(i) The Connecticut counties of Fairfield (except the towns and cities located within 15 miles of the New York/Connecticut state border and located on a line north of the towns of Wilton, Weston, Easton and Trumbull), * * *

* * * * *

(6) Zone 10 shall include the Connecticut county of Fairfield (only the towns and cities located within 15 miles of the New York/Connecticut state border and located on a line north of the towns of Wilton, Weston, Easton and Trumbull).

* * * * *

Proposed by the Dairy Institute of New York

Proposed No. 33

In § 1001.52 Plant location adjustments, remove the Connecticut countries of Fairfield and New Haven from Zone 5 and add them to Zone 4.

Proposal Amending Order 2 Only

Proposed by Agri-Mark, Dairylea Cooperative, Inc., and Eastern Milk Producers Cooperative Association

Proposal No. 34

Revise the first sentence of § 1002.6 Producer, up to the first comma, to read as follows:

Section 1002.6 Producer.

"Producer" means any dairy farmer who produces milk approved by a duly constituted regulatory agency for fluid consumption and who delivers pool milk as specified in § 1002.14 to a pool plant, * * * * *

Proposal No. 35

In § 1002.14 Pool milk, revise paragraph (b) as follows:

Section 1002.14 Pool milk.

* * * * *

(b) Milk not approved by a duly constituted regulatory agency for fluid consumption.

* * * * *

Proposal No. 36

In § 1002.25 Bulk tank units, revise paragraph (c) by removing the first proviso to read as follows:

Section 1002.25 Bulk tank units.

* * * * *

(c) Except as set forth in paragraphs (c)(1) through (5) of this section, a handler may declare that a unit is to be operated as a pool unit and at any time may add a farm to a pool unit; *Provided,* That a handler pursuant to paragraph (a)(4) of this section may not add farms to a pool unit during the months of July through March unless his Class I–A skim milk or butterfat utilization exceeds the total receipts of skim milk or butterfat, respectively, in milk from the pool unit, and in the latter case he may add only the smallest number of farms necessary to provide sufficient milk to cover such class I–A utilization.

* * * * *

Proposal No. 37

In § 1002.27 Suspension and cancellation of designation, revise paragarph (b), redesignate paragraphs (c) through (j) as (d) through (k), and add a new paragraph (c) to read as follows:

Section 1002.27 Suspension and cancellation of designation.

* * * * *

(b) The designation of any plant which in any month is not approved by a health authority as a source of milk for the marketing areas shall be automatically suspended at the beginning of the second month following the month that the handler receives notice that the plant does not have health approval as a source of milk for the marketing area unless the absence of health approval is a temporary condition covering a period of not more than 15 days; provided, that the designation of a plant approved by a health authority as a source of milk for the marketing area, even though such approval is restricted to prohibit shipment to the marketing area of milk for specified periods during which permission is given by such health authority for receiving unapproved milk or skim milk at the plant or for shipment of unapproved skim milk from such plant, shall not be suspended pursuant to this provision.

(c) The designation of a plant pursuant to § 1002.24 shall be suspended at the beginning of the second month following and consecutive 12-month period in which the plant failed to receive any pool milk or at the beginning of the second month following a month in which there is a failure to maintain the facilities and equipment that constitute a plant pursuant to § 1002.8(a).

* * * * *

Proposed by Oak Tree Farm Dairy, Inc.

Proposal No. 38

This proposal would adopt under the New York/New Jersey order the "Route disposition" definition of the Middle Atlantic order.

Proposal No. 39

Revise § 1002.14 Pool milk, be adding the following to the end of the introductory text:

"This definition shall also include any milk that does not qualify to be pooled under another Federal order."

Proposal No. 40

Revise § 1002.24 Regular pool plants, § 1002.25 Bulk tank units, and § 1002.28 Temporary pool plants by specifying for plants and bulk tank units the following percent or more of their receipts of skim milk and butterfat in milk from dairy farmers and units that must be classified as Class I–A in the marketing area or as Class I–A on the basis of transfers to pool plants:

1. 30 percent or more during the combined three-month period of September through November;

2. 20 percent or more during the months of January, February, July, August, and December;

3. 10 percent or more during the combined four-month period of March through June, except, if the combined utilization during the September through November period was 45 percent or more then this utilization requirement need not be met.

Proposal No. 41

Revise § 1002.50a Class prices to:

1. Provide for advance Class II pricing similar to what has been adopted in other orders, however, the usual exception that states that the final Class II price shall be not less than the Class III price should say under this order that the final Class II price shall be not less than the Class III price plus 50 cents nor more than the Class III price plus 60 cents.

2. Provide for a Class III price which would be the present M–W price plus 40 cents.

Proposal No. 42

This proposal would adopt under the New York-New Jersey order those provisions of the Middle Atlantic order which deal with the classification of milk. As such, the "CLASSIFICATION" sections of 1002 (i.e., §§ 1002.40–1002.46) would be replaced by §§ 1004.40 through 1004.44 which are as follows: § 1004.40 Classes of utilization; § 1004.41 Shrinkage; § 1004.42 Classification of transfers and diversions; § 1004.43 General rules; § 1004.44 Classification of producer milk. However, the Classes of utilization section of 1002 would be revised to provide for a three-class classification scheme as follows:

1. Class I–A and I–B milk would be all fluid milk products.

2. Class II would be all cheese, frozen desserts, yogurt, eggnog, whey used in milk powder and skim milk powder, and other than Class I and Class III.

3. Class III would be butter, low fat butter, milk powder, skim milk powder, condensed in consumer packages, candy and confectionary, dumpage, shrinkage and lab use.

Proposed by Dellwood Foods, Inc.

Proposal No. 43

Revise §§ 1002.24 Regular pool plants, 1002.25 Bulk tank units, 1002.26 Operating requirements and 1002.28 Temporary pool plants to:

1. Specify for pool handlers a shipping percentage of 15 percent for September through January.

2. Eliminate the provisions for the issuance of a "call" for shipments of milk.

Proposed by Farmland Dairies

Proposal No. 44

Revise § 1002.15 Fluid milk product to:

1. Specifically include UHT (ultra high temperature) milk, cream in consumer packages, ice cream mix and milk shake mix as fluid milk products.

Proposed by Friendship Dairies, Inc.

Proposal No. 45

Revise § 1002.15 Fluid milk product to read as follows:

Section 1002.15 Fluid milk product.

"Fluid milk product" means all skim milk and butterfat in the form of milk, fluid skim milk, filled milk, cultured or flavored milk drinks, concentrated fluid milk disposed of in consumer packages, and any mixture of cream (other than frozen desserts, frozen dessert mixes, whipped topping mixtures, evaporated milk, plain or sweentened condensed milk or skim milk, sterilized milk or milk products in hermetically sealed containers, and any product which contains 6 percent or more nonmilk fat (or oil), providing the ph of the product is greater than 4.6 at the time of leaving the plant of last receipt; also, provided that when any fluid milk product is fortified with nonfat milk solids, the amount of skim milk to be included within this definition shall be only that amount equal to the weight of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Proposed by Agri-Mark

Proposal No. 46

In § 1002.31 Producer payroll reports, revise paragraph (b) by replacing the words "last day" with "25th day".

Proposed by Dairylea Cooperative, Inc. and Eastern Milk Producers Cooperative Association

The following 7 proposals would update the payment date provisions of the NY–NJ order. Proposals 49 through 53 would become effective with milk received on and after January 1, 1990.

Proposal No. 47

In § 1002.22 Additional duties of the market administrator, revise paragraph (m)(2) by changing "15th" day of each month to read "14th" day of each month.

Proposal No. 48

In § 1002.31 Producer payroll reports, revise paragraph (b) by changing the "last" day of each month to read "25th" day of each month.

Proposal No. 49

Revise the introductory text of § 1002.50a Class prices, to read as follows:

Section 1002.50a Class prices.

For pool milk received during each month from dairy farmers or cooperative associations of producers, each handler shall pay per hundredweight not less than the price set forth in this section, subject to the differentials and adjustments in §§ 1002.51 and 1002.81. Any handler who purchases or receives milk during any month from a cooperative association of producers but does not operate the plant or unit receiving this milk from producers shall pay the cooperative association on or before the last day of the month at not less than the Class II milk price pursuant to this section for the preceding month for milk received from such cooperative during the first 15 days of the month, and shall pay the cooperative association on or before the 15th day of the following month the balance due for milk received during the month from such cooperative at not less than the class prices pursuant to this section subject to the differentials and adjustments set forth in §§ 1002.51 and 1002.81 applicable at the plant at which the milk is first received from the cooperative association. Such payments to a cooperative association shall be deemed not to have been made until the payments have been received by the cooperative association.

* * * * *

Proposal No. 50

In § 1002.80 Time and rate of payments, redesignate paragraphs (a) and (b) as paragraphs (b) and (c) and revise, add a new paragraph (a), and redesignate paragraphs (c) through (f) as paragraphs (d) through (g) to read as follows:

Section 1002.80 Time and rate of payments.

(a) On or before the last day of the month, each handler shall make payment to each producer for milk received from such producer during the first 15 days of the month at not less than the Class II milk price for the proceding month.

(b) On or before the 20th day of the month, each handler shall make payment to each producer the balance due for all milk received from such producer during the preceding month at not less than the uniform price for such month, subject to the following adjustments:

* * * * *

(c) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its producer-members to collect payment for their milk, each handler, on or before the date on which the payments are otherwise due individual producers, shall pay the cooperative association for milk received during the month from the producer-members of such association an amount equal to not less than the total amount otherwise due such producer-members as determined pursuant to paragraphs (a) and (b) of this section.

* * * * *

Proposal No. 51

Revise § 1002.85 Payments to the producer-settlement fund, by substituting the "16th" day of each month for the "21st" day of each month.

Proposal No. 52

Revise § 1002.86 Payments out of the producer-settlement fund, by substituting the "17th" day of each month for the "22nd" day of each month.

Proposal No. 53

In § 1002.89 Cooperative payments for marketwide services, revise paragraph (f)(1) by substituting the "20th" day of each month for the "25th" day of each month.

Proposed by NY Farm Bureau

The following 4 proposals would establish a partial payment and rules for final payment under the NY–NJ order. Proposals 54 through 57 would become effective with milk received on and after January 1, 1990.

Proposal No. 54

Revise the introductory text of § 1002.50a Class prices, to read as follows:

Section 1002.50a Class prices.

For pool milk received during each month from dairy farmers or cooperative associations of producers, each handler shall pay per hundredweight not less than the price set forth in this section, subject to the differentials and adjustments in §§ 1002.51 and 1002.81. Any handler who purchases or receives milk during any month from a cooperative association of producers but does not operate the plant or unit receiving this milk from producers shall pay the cooperative association on or before the last day of the month at not less than the Class II milk price pursuant to this section for the preceding month for milk received from such cooperative during the first 15 days of the month, and shall pay the cooperative association on or before the 18th day of the following month the balance due for milk received during the month from such cooperative at not less than the class prices pursuant to this section subject to the differentials and adjustments set forth in §§ 1002.51 and 1002.81 applicable at the plant at which the milk is first received from the cooperative association. Such payments to a cooperative association shall be deemed not to have been made until the payments have been received by the cooperative association.

* * * * *

Proposal No. 55

In § 1002.80 Time and rate of payments, redesignate paragraphs (a) and (b) as paragraphs (b) and (c) and revise, add a new paragraph (a), and redesignate paragraphs (c) through (f) as paragraphs (d) through (g), to read as follows:

Section 1002.80 Time and rate of payments.

(a) On or before the last day of the month, each handler shall make payment to each producer for milk received from such producer during the first 15 days of the month at not less than the Class II milk price for the proceding month.

(b) On or before the 20th day of the month, each handler shall make payment to each producer the balance due for all milk received from such producer during the proceding month at not less than the uniform price for such month, subject to the following adjustments:

* * * * *

(c) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its producer-members to collect payment for their milk, each handler, on or before the date on which the payments are otherwise due individual producers, shall pay the cooperative association for milk received during the month from the producer-members of such association an amount equal to not less than the total amount otherwise due such producer-members as determined pursuant to paragraphs (a) and (b) of this section.

* * * * *

Proposal No. 56

Revise § 1002.85 Payments to the producer-settlement fund, by substituting the "18th" day of each month for the "21st" day of each month.

Proposal No. 57

Revise § 1002.86 Payments out of the producer-settlement fund, by substituting the "19th" day of each month for the "22nd" day of each month.

Proposed by Friendship Dairies, Inc.

Proposal No. 58

In § 1002.26 Operating requirements, revise paragraph (a) by adding a new paragraph (i) to read as follows:

Section 1002.26 Operating requirements.

* * * * *

(a) * * *

(i) The person operating a pool plant will not be found to be in violation of paragraph (a) if; he has offered to dispose of milk as Class I–A milk in the marketing area at a price determined by § 1002.50a and adjusted by:

(a) The rates specified in § 1002.51(c)

(b) Actual gathering costs

(c) Premium payments to producers

(d) Seasonal costs or charges incurred by the handler, which are paid to the producer or cooperative

(e) actual transportation costs, including hauling from the farm to plant of first receipt, which are not paid for by the producer

* * * * *

The following four proposals would: (1) Change the point of pricing milk from the 201–210 zone to the 1–10 zone; (2) change the differential rate from 2.2 cents per 10-mile zone up to the 201–210 zone and from negative 1.5 cents per 10-mile zone beyond the 201–210 zone to negative 3.3 cents beyond the 1–10 zone; (3) give the market administrator the authority to adjust column B of the differential rate schedule, on an annual basis to reflect the actual cost of shipping fluid milk from farms in such zones to the marketing area; (4) from the differential rate schedule of § 1002.51(c) take columns A and B and create a new table to be placed in reserved § 1002.52; and (5) revise § 1002.82 to refer to § 1002.52 rather than § 1002.51(c) column B.

Proposal No. 59

In § 1002.50a Class prices, revise paragraph (a) to provide for the pricing of milk at the 1–10 mile "city" zone as follows:

Section 1002.50a Class prices.

* * * * *

(a) For Class I–A milk, from the effective date hereof the Class I price in the 1–10 mile freight zone shall be the basic formula price for the second preceding month plus $3.36.

* * * * *

Proposal No. 60

In § 1002.51 Transportation differentials, revise paragraph (c) to read as follows:

Section 1002.51 Transportation differentials.

* * * * *

(c) The differential rates applicable at plants shall be as set forth in the following schedule, Except, that the market administrator on an annual basis shall adjust the rates in column B to reflect the actual cost of shipping fluid milk from farms in such zones to the marketing area:

[Cents per Cwt.]

(A) Freight Zone Miles	(B) Classes I-A and I-B	(C) Class II
1 to 10	−0	8
11 to 20	−3.3	8
21 to 25	−6.6	8
26 to 30	−6.6	7
31 to 40	−9.9	7
41 to 50	−13.2	7
51 to 60	−16.5	6
61 to 70	−19.8	6
71 to 75	−38.1	6
76 to 80	−38.1	5
81 to 90	−41.4	5
91 to 100	−44.7	5
101 to 110	−48.0	4
111 to 120	−51.3	4
121 to 125	−54.6	4
126 to 130	−54.6	3
131 to 140	−57.9	3
141 to 150	−61.2	3
151 to 160	−64.5	2
161 to 170	−67.8	2
171 to 175	−71.1	2
176 to 180	−71.1	1
181 to 190	−74.4	1
191 to 200	−77.7	1
201 to 210	−81.0	0
211 to 220	−84.3	0
221 to 225	−87.6	0
226 to 230	−87.6	−1
231 to 240	−90.9	−1
241 to 250	−94.2	−1
251 to 260	−97.5	−2
261 to 270	−100.8	−2
271 to 275	−104.1	−2
276 to 280	−104.1	−3
281 to 290	−107.4	−3
291 to 300	−110.7	−3
301 to 310	−114.0	−4
311 to 320	−117.3	−4
321 to 325	−120.6	−4
326 to 330	−120.6	−5
331 to 340	−123.9	−5
341 to 350	−127.2	−5
351 to 360	−130.5	−6
361 to 370	−133.8	−6
371 to 375	−137.1	−6
376 to 380	−137.1	−7
381 to 390	−140.4	−7
391 to 400	−143.7	−7
401 and over	−147.0	−8

* * * * *

Proposal No. 61

Add to § 1002.52 columns A and B of the table in § 1002.51(c).

Proposal No. 62

Revise § 1002.82 Location differentials, paragraph (a) by replacing the reference "1002.51(c)" with "1002.52".

Proposed by the NJ Milk Industry Association, Inc.:

Proposal No. 63

This proposal would: (1) Change the direct delivery amount from 15 cents to 22 cents; (2) change the payment area from the I–70 mile zones to the 1–150 mile zones. (3) change the differential rate from 2.2 cents to 2.5 cents per 10-mile zone up to the 201–210 zone; (4) change the negative differential rate from 1.5 cents to 2.5 cents per 10-mile zone beyond the 201–210 zone; and (5) eliminate all zone price differentials on Class II milk.

In § 1002.51, paragraph (c) is revised to read as follows:

Section 1002.51 Transportation differentials.

* * * * *

(c) The differential rates applicable at plants shall be as set forth in the following schedule:

(A) Freight Zone Miles	(B) Classes I–A and I–B (Cents per Cwt.)
1 to 10	+72.0
11 to 20	+69.5
21 to 25	+67.0
26 to 30	+67.0
31 to 40	+64.5
41 to 50	+62.0
51 to 60	+59.5
61 to 70	+57.0
71 to 75	+54.5
76 to 80	+54.5
81 to 90	+52.0
91 to 100	+49.5
101 to 110	+47.0
111 to 120	+44.5
121 to 125	+42.0
126 to 130	+42.0
131 to 140	+39.5
141 to 150	+37.0
151 to 160	+12.5
161 to 170	+10.0
171 to 175	+7.5
176 to 180	+7.5
181 to 190	+5.0
191 to 200	+2.5
201 to 210	+0.0
211 to 220	−2.5
221 to 225	−5.0
226 to 230	−5.0
231 to 240	−7.5
241 to 250	−10.0
251 to 260	−12.5
261 to 270	−15.0
271 to 275	−17.5
276 to 280	−17.5
281 to 290	−20.0
291 to 300	−22.5
301 to 310	−25.0
311 to 320	−27.5
321 to 325	−30.0
326 to 330	−30.0
331 to 340	−32.5
341 to 350	−35.0
351 to 360	−37.5
361 to 370	−40.0
371 to 375	−42.5
376 to 380	−42.5
381 to 390	−45.0
391 to 400	−47.5
401 and over	−50.0

* * * * *

Proposed by the Dairy Institute of New York

Proposal No. 64

Revise § 1002.55 to read as follows:

Section 1002.55 Transportation credits.

(a) For pool milk received by a handler in a pool or partial pool unit, a transportation credit at the rate of 15 cents per hundredweight shall be computed.

(b) A credit shall be computed on Class I–A and Class I–B milk received by a handler in a pool or partial pool unit and delivered to plants in the metropolitan area as follows:

	Credit, per hundredweight
Plants located in:	
Bronx and Westchester	5
Rest of New York City	10
Nassau	10
Suffolk	15

Proposed by Kraft, Inc.

Proposal No. 65

Revise § 1002.55 to read as follows:

Section 1002.55 Transportation credits.

(a) For pool milk received by a handler in a pool or partial pool unit, a transportation credit at the rate of 15 cents per hundredweight shall be computed.

(b) For each handler that operates a plant, a transportation credit shall be computed on milk shipped from a plant to a pool plant that distributes Class I–A milk in the marketing area as follows:

(1) Multiply the number of hundredweights shipped and utilized in Class I times 0.28 cents times the number of miles between the transferor plant and the transferee plant.

(c) For each handler who transfers milk from a plant to a pool plant that distributes Class I–A milk in the marketing area, an assembly credit shall be computed at a rate of 8 cents per hundredweight on the milk utilized in Class I.

(d) For purposes of this section, the distances to be computed shall be on the basis of the shortest highway mileage as determined by the market administrator, with fractions rounded up to the next whole mile.

Proposals Amending Order 4 Only

Proposed by Pennmarva Dairymen's Federation

Proposal No. 66

In § 1004.12 Producer, revise paragraph (c) to read as follows:

Section 1004.12 Producer.

* * * * *

(e) Milk which is diverted in accordance with the provisions of this section shall be deemed to have been received at the location of the nonpool plant to which the milk is diverted.

* * * * *

Proposed by Brookwood Farms and High's Dairies, Inc.

Proposal No. 67

Revise § 1004.15 Fluid milk product, up to the proviso, by adding to the list of products that are not fluid milk products, buttermilk or buttermilk blend for use in baking on the premises by a retail business, as follows:

Section 1004.15 Fluid milk product.

"Fluid milk product" means milk, skim milk (including concentrated and reconstituted milk or skim milk), buttermilk, cultured buttermilk, flavored milk, milk drinks (plain or flavored), filled milk, and (except ice cream, ice cream mixes, ice milk mixes, milkshake mixes, eggnog, YOGURT, condensed or evaporated milk, buttermilk or buttermilk blend for use in on premises baking by a retail business, and any product which contains 6 percent or more nonmilk fat [or oil]) any mixture in fluid form of cream and milk or skim milk containing less than 10 percent butterfat:

* * * * *

Proposed by Agri-Mark, Dairylea Cooperative, Inc. and Eastern Milk Producers Cooperative Association

Proposal No. 68

In § 1004.92 Computation of base for each producer, revise paragraph (c) to read as follows:

Section 1004.92 Computation of base for each producer.

* * * * *

(c) For any producer who was a producer under Orders #1, #2 or #4 for a minimum of 90 days during the months of August through December, the quantity of milk receipts shall be the total pounds of milk received from such dairy farmer by pool handlers under those orders throughout the August through December period.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 69

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrators of each of the aforesaid marketing orders or from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Office of the Market Administrator, New England, New York-New Jersey and Middle Atlantic Marketing Areas

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on: June 7, 1988.

J. Patrick Boyle,

Administrator, Agricultural Marketing Service.

[FR Doc. 88-13161 Filed 6-9-88; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1230

[No. LS-88-035]

Pork Promotion, Research, and Consumer Information Program; Amendments to the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would amend the Pork Promotion, Research, and Consumer Information Order to (1) require market agencies which sell on behalf of a producer porcine animals used for breeding to collect assessments on such animals and remit them to the National Pork Board; (2) modify the requirements for annual reports from organizations receiving funds distributed by the National Pork Board; (3) require the use of USDA data to determine the number of pork producers in each State when nominating producers by petition to the National Pork Producers Delegate Body; and (4) make a minor editorial change for clarification. These proposed changes are designed to clarify the intent of the order and would improve assessment collection procedures and facilitate preparation and submission of reports.

DATE: Comments must be received by July 11, 1988.

ADDRESS: Send two copies of comments to Ralph L. Tapp, Chief, Marketing Programs and Procurement Branch, Livestock and Seed Division, Agricultural Marketing Service (AMS), USDA, Room 2610-S, Post Office Box 96456, Washington, DC 20090-6456.

Comments will be available for public inspection during regular business hours at the above office in Room 2610, South USDA Building, 14th and Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs and Procurement Branch, 202/447-2650.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified as a nonmajor rule under the criteria contained therein.

This action has also been reviewed under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* This proposed rule would (1) require market agencies to collect assessments on porcine animals classed as breeding stock and remit them to the Board; (2) permit State pork producer associations receiving less than $10,000 in assessments annually to submit unaudited annual financial statements to the Board; (3) specify that the latest available USDA data would be used by the department in determining the number of pork producers in each State for the purpose of nominating producers to the National Pork Producers Delegate Body; and (4) make a clarifying editorial change in § 1230.58.

Most market agencies, i.e., livestock auction markets, commission firms who sell livestock on behalf of producers would be classified as small businesses under the RFA.

Since the same form currently used by market agencies in reporting and remitting assessments to the Board on feeder pigs and slaughter hogs sold on behalf of producers would be used for breeding stock, this proposed requirement to collect and remit assessments on breeding stock would not appreciably increase market agencies reporting and record keeping.

Most of the breeding stock are sold through private sales in which the producer (seller) is required to remit the assessment, so the additional collection and remittance activity for market agencies under this proposed rule should be minimal.

Modifying the requirements that annual financial reports for State pork producer associations be prepared by a certified public accountant would reduce the cost of reporting for State pork producer associations receiving less than $10,000 in annual assessments. The cost savings would result in increased funding available for financing promotion and research programs. Requiring the use of USDA data in connection with the National Pork Producers Delegate Body will not have any economic impact upon small entities. The data have been used by the Department to verify nominations of producers by petition as necessary during the Delegate Body nomination process since the order was implemented.

For these reasons, the Administrator of the Agricultural Marketing Service has determined that this proposed action will not have a significant economic effect on a substantial number of small entities.

The Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801–4819) approved December 23, 1985, authorizes the establishment of a national pork promotion, research, and consumer information program. The program is funded by an assessment rate of 0.25 percent of the market value of all procine animals marketed in the United States and an equivalent amount of assessment on imported porcine animals, pork, and pork products. The final order establishing a pork promotion, research, and consumer information program was published in the September 5, 1986, issue of the **Federal Register** (51 FR 31898; as corrected at 51 FR 36383) and assessments began on November 1, 1986.

The order requires that producers pay to the Board an assessment of 0.25 percent of the market value of each porcine animal upon sale. However, for purposes of collecting and remitting assessments, porcine animals are divided into three separate categories (1) feeder pigs, (2) slaughter hogs, and (3) breeding stock. The order specifies that purchasers of feeder pigs and slaughter hogs shall collect an assessment on these animals if assessments are due. The order further stipulates that for the purpose of collecting and remitting assessments, persons engaged as a commission merchant, auction market or livestock market in the business of receiving such porcine animals for sale on commission for or on behalf of a producer shall be deemed to be a purchaser.

The procedures for collection and remittance of assessments are specified in § 1230.71 of the order. Under that section, purchasers of porcine animals are required to collect assessments from producers upon the sale of porcine animals, if an assessment is due, and remit such assessment to the Board by the 10th day of the month following the month in which porcine animals were marketed. In § 1230.71(b)(1) of the order, a purchaser is any person buying feeder pigs or market hogs, and, for purposes of collection and remittance of assessments, any person engaged as a commission merchant, an auction market, or livestock market in the business of receiving porcine animals for sale on commission for or on behalf of a producer is a purchaser. That section does not currently provide for collection and remittance of assessments on breeding stock by a purchaser who is a commission merchant, auction market, or similar market agency sold for or on behalf of a producer. The order does specify that producers remit assessments due on breeding stock upon sale. Even though most porcine animals marketed annually as breeding stock are sold through private sales, some producers market porcine animals used as breeding stock through market agencies. Therefore, to bring uniformity and consistency to the order language for collecting and remitting assessments on all porcine animals sold through a market agency, it is proposed that § 1230.71 be revised to specify that those purchasers who are commission merchants, auction markets, or similar market agencies in the business of selling porcine animals for or on behalf of producers collect and remit assessments on such animals sold as breeding stock. Producers selling breeding stock through private sales would continue to remit assessments upon sale of such porcine animals.

Section 1230.74(b) of the order requires that organizations receiving distributions of funds from the Board shall furnish the Board with an annual report prepared by a certified public accountant (CPA) of all funds distributed to such organizations. State pork producer associations receive a percentage of the annual net assessments collected in their State pursuant to § 1230.72 (a) and (b). As a result, these State associations are subject to this CPA audit provision of the order. However, some of the smaller State pork producer associations receive relatively small amounts of assessments and the cost of an annual report prepared by a CPA could represent a significant proportion of their total annual assessments. There were 45 State pork producer associations which received distributed assessments in 1987. The amount of annual assessments distributed ranged from less than $1,000 to more than $970,000. Thirteen States received less than $10,000 and four of those States received less than $2,000. To minimize the cost of annual financial reports for the smaller States, the National Pork Board has recommended that any State pork producer association receiving less than $10,000 in distributed assessments annually be exempted from the required annual report prepared by a CPA and instead be permitted to submit to the Board an unaudited financial statement prepared by or for the association. Such unaudited financial statements would have to be certified by at least two members of the association. Additionally, each such State pork producer association would be required to submit a CPA-audited annual financial statement at least once every 5 years or more frequently if the Board or the Secretary deems it to be necessary. States receiving less than $2,000 in distributed assessments would be audited by the Board once every 5 years in lieu of the annual financial statement prepared by a CPA every 5 years. It is proposed that § 1230.74 (Prohibited use of distributed assessments) be amended to include these provisions. Additionally, it is proposed that § 1230.74(b) be amended to specify that the annual report from State pork producer associations is a financial statement which is audited rather than prepared by a CPA.

It is also proposed that the latest available published USDA data be used to determine the number of pork producers in a State for purposes of determining the number of pork producer signatures needed for nominations of pork producers to the National Pork Producers Delegate Body by written petition. The Delegate Body is appointed each year by the Secretary from pork producers who are nominated by State pork producer associations or who are nominated by written petition. Members are appointed for a 1-year term. Under § 1230.32(b)(2), pork producers in a State may be nominated for appointment to the Delegate Body by written petition signed by 100 producers in that State or by 5 percent of the producers in that State, whichever number is less.

In the 1987 and 1988 nominations and appointments to the Delegate Body, the

Department has used, when necessary, data contained in the latest available issue of the "Hogs and Pigs" report prepared by the USDA's Agricultural Statistics Board, National Agricultural Statistics Service to determine the number of pork producer signatures needed. That report enumerates the number of farming operations with hogs in each State for a calendar year. It is proposed that § 1230.32(b)(2) be amended to require that the number of pork producers in a State will be determined by the Department based on such latest available information.

This rule also proposes an editorial change in § 1230.58(g). This section delineates the powers and duties of the National Pork Board. The phrase, "To appoint or employ such persons as staff * * *" would be revised to read, "To appoint or employ staff persons * * *" This proposed change in the wording of this phrase would not change the Board's powers conferred in subsection (g) but would eliminate the ambiguity which exists in the current regulations.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreement, Meat and meat products, Pork and pork products.

For reasons set forth in the preamble, it is proposed that 7 CFR Part 1230, be amended as set forth below:

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 Part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

2. Revise § 1230.32(b)(2) to read as follows:

§ 1230.32 Conduct of election.

* * * * *

(b)(2) The number of pork produces in a State shall be determined by the Department based on the latest available Department information, which tabulates by State the number of farming operations with procine animals.

* * * * *

3. Revise §1230.58(g) to read as follows:

§ 1230.58 Powers and duties of the Board.

* * * * *

(g) To appoint or employ staff persons as it may deem necessary, to define the duties and determine the compensation of each, to protect the handling of Board funds through fidelity bonds, and to conduct routine business.

* * * * *

§ 1230.71 [Amended]

4. Section 1230.71 (b)(2), (b)(3), and (b)(4) redesignated (b)(3), (b)(4), and (b)(5), respectively, and a new (b)(2) added to read as follows:

* * * * *

(b) * * *

(2) Assessments on procine animals raised as breeding stock which are sold by a commission merchant, auction market, or livestock market in the business of receiving such procine animals for sale on commission for or on behalf of a producer shall be collected and remited by the commission merchant, auction market, or livestock market selling such porcine animals.

* * * * *

5. Section 1230.74(b) is revised to read as follows and a new (c) is added:

§ 1230.74 Prohibited use of distributed assessments.

* * * * *

(b) Except as provided for in paragraph (c) of this section, organizations receiving distributions of assessments from the Board shall furnish the Board with an annual financial statement audited by a certified public accountant of all funds distributed to such organization pursuant to this subpart and any other reports as may be required by the Secretary or the Board in order to verify the use of such funds.

(c) State pork producer associations as defined in § 1230.25 receiving distributions of assessments pursuant to § 1230.72 which receive less than $10,000 in assessments annually may satisfy the requirements of paragraph (b) of this section by providing unaudited annual financial statements to the Board prepared by State association staff members or individuals who prepare annual financial statements for the State association provided that such financial statements are attested to and certified by two members of the State association. Notwithstanding any provision herein to the contrary, State associations receiving less than $10,000 in distributed assessments annually, which submit unaudited annual financial statements to the Board, shall be required to submit an annual financial statement audited by a certified public accountant at least once every 5 years or more frequently if deemed necessary by the Board or the Secretary. If State pork producer associations receive less than $2,000 in distributed assessments annually, the Board may elect to conduct its own audit of those State associations annual financial statements every 5 years in lieu of the required financial statement.

Done at Washington, DC, on June 6, 1988.

J. Patrick Boyle,

Administrator.

[FR Doc. 88–13076 Filed 6–9–88; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 584

[No. 88–454]

Transactions With Affiliates

Date: June 2, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or the "Corporation"), pursuant to and in accordance with Section 408 of the National Housing Act as amended by the Competitive Equality Banking Act of 1987 ("CEBA"), is proposing to amend its regulations pertaining to transactions between institutions whose accounts are insured by the FSLIC ("insured institutions") and affiliates of those insured institutions. The proposed amendments (i) define and clarify the applicability of the limitations and prohibitions specified in sections 23A and 23B of the Federal Reserve Act and (ii) clarify the applicability of the limitations and prohibitions specified in the Board's regulations existing prior to the enactment of CEBA. The proposed amendments are intended to further the Congressional intent codified in CEBA of providing parity between a bank and a thrift holding company with respect to the treatment of transactions between the subsidiary depositiory institution and its affiliates engaged in activities permissible for a bank holding company under the Bank Holding Company Act and the regulations thereunder. The Board requests comments on all aspects of this proposal. In addition, the Board is soliciting comments on whether amendments to its regulations governing transactions with affiliates, in addition to those proposed herein, are necessary or appropriate in light of the CEBA.

DATE: Comments must be received on or before August 9, 1988.

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

FOR FURTHER INFORMATION CONTACT: Steven J. Gray, Attorney (202) 377–7506; Kevin A. Corcoran, Deputy Director, (202) 377–6962; V. Gerard Comizio, Director, (202) 377–6411, Corporate and Securities Division; or Julie L. Williams, Deputy General Counsel for Securities and Corporate Structure, (202) 377–6459; Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: On August 10, 1987, President Reagan signed into law the Competitive Equality Banking Act of 1987, Pub. L. No. 100–86, 101 Stat. 552. The CEBA addresses a number of important issues relating specifically to the thrift industry, including the recapitalization of the FSLIC, emergency acquisitions of troubled thrift institutions, and potential areas for improvement in the examination and supervisory processes. Among the provisions contained in the CEBA are sections 104(d) and 110, which amend section 408 of the National Housing Act ("NHA"), 12 U.S.C. 1730a, by adding new subsections (p) and (t) respectively. Subsection (p) provides, in effect, that the limitations and prohibitions on transactions with affiliates applicable to subsidiary insured institutions of savings and loan holding companies prior to the enactment of the CEBA will not apply to transactions between a subsidiary insured institution and its affiliates engaged in activities permissible for a bank holding company under section 4(c) of the Bank Holding Company Act ("BHCA"), 12 U.S.C. 1843(c). Those transactions will, instead, be subject to the limitations and prohibitions of sections 23A and 23B of the Federal Reserve Act ("FRA"), 12 U.S.C. 371c and 371c-1. In addition, subsection (p) prohibits certain cross-marketing practices by an insured institution subsidiary of a diversified savings and loan holding company and its affiliates. Subsection (p) further provides that the Corporation may prescribe regulations for the purpose of defining and clarifying the applicability of the provisions of sections 23A and 23B of the FRA.

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

As described in greater detail below, the Board is proposing amendments to its regulations to (i) incorporate, with certain modifications discussed hereinafter, the provisions of Sections 23A and 23B of the FRA into proposed new 12 CFR 584.3–1 and 584.3–2 and (ii) clarify which transactions involving subsidiary insured institutions and their affiliates are subject to proposed new 12 CFR 584.3–1 and 584.3–2 or 12 CFR 584.3 of the Board's existing regulations. The Board is soliciting comments from interested parties on all aspects of the proposed amendments and, in particular: (i) Whether any additional definition and clarification of the applicability of the relevant statutory and regulatory provisions is necessary, (ii) whether and, to what extent, it is necessary or appropriate for the Board to approve transactions that exceed the quantitative or qualitative limitations of section 23A incorporated into new 12 CFR 584.3–1, and (iii) whether and, the extent to which, the provisions of Part 584, including proposed §§ 584.3–1 and 584.3–2, should be applicable to transactions between a subsidiary insured institution and its subsidiaries and/or to transactions between subsidiaries of a subsidiary insured institution and other affiliates of such insured institution.

A. Solicitation of Comments Beyond Proposal

The Board is concerned that the new statutory scheme, created by CEBA, to govern transactions between holding company subsidiary insured institutions and their affiliates is somewhat confusing, frought with anomalies and, potentially inconsistent. For example, whereas section 408(d) of the NHA and 12 CFR 584.3 thereunder prohibit certain transactions and allow for prior approval, without any specified quantitative limits, by the PSA of other transactions, section 23A of the FRA generally permits "covered transactions" up to threshold limits. Moreover, whereas 12 CFR 584.3 is (except as specifically provided therein) applicable to transactions between a subsidiary insured institution and its service corporation subsidiaries but is not applicable to transactions between such service corporations and their parent institution's other holding company affiliates, the inverse is the case under section 23A of the FRA. Similarly, 12 CFR 584.3 is applicable to transactions between a subsidiary insured institution and entities outside of the holding company structure that are under the control of a person that controls the holding company, but section 23A is not applicable to transaction with such commonly controlled entities outside the holding company structure.

Accordingly, the Board is soliciting comments on whether amendments to its regulations, in addition to the amendments proposed herein, are necessary or appropriate to provide for a workable scheme of transactions with affiliates regulation. In light of the policies embodied in the transactions with affiliates provisions of the CEBA of "leveling the playing field" between bank and thrift holding companies with respect to transactions between depository institutions and their affiliates and generally liberalizing the restrictions on transactions between subsidiary insured institutions and their affiliates, the Board requests commenters to address whether it would be desirable, to the extent practicable and subject to supervisory considerations, that all (or as many as possible) subsidiary insured institutions be subject to one set of rules with respect to transactions with their affiliates. Such a set of rules could, for example, be based upon the limitations and prohibitions contained in sections 23A and 23B of the FRA. Accordingly, the Board seeks public comments on whether and, to what extent, the Board's regulations at 12 CFR 584.3 could or should subject transactions between a subsidiary insured institution and its affiliates to prohibitions and limitations based on those contained in sections 23A and 23B of the FRA without transgressing the requirements of section 408(d) of the NHA.

It should also be noted that the Board has proposed for comment amendments to 12 CFR 563.41(a) and 12 CFR 563.43(a) (the "Conflict Rules") to remove any potential for conflict between those regulatory provisions and section 408(d)(6) of the NHA, 12 U.S.C. 1730(d)(6), which requires the prior approval of the FSLIC on a case-by-case basis of certain transactions between an

insured institution and its affiliates.[1] The effect of those proposed amendments would be to make the Conflict Rules inapplicable to transactions with affiliates that are already subject to transactions with affiliates regulation pursuant to provisions of the NHA. Transactions between an insured institution that is not a subsidiary of a savings and loan holding company and affiliated persons of that insured institution (as defined by 12 CFR 561.29) would continue to be subject to the Conflicts Rules. The Board may also review the Conflict Rules to determine what, if any, additional amendments to those provisions are warranted. Once such review is completed the Board will, if warranted, solicit public comment on proposed amendments to the Conflicts Rules. At this time, the Board is not specifically soliciting comment with respect to the Conflict Rules.

B. Amendments to Part 584

In accordance with section 408 of the NHA, as amended by the CEBA, the Board is proposing to amend Part 584 of its regulations to provide that transactions between an insured institution subsidiary of a savings and loan holding company and an affiliate of the insured institution, which is engaged only in business activities which the Board of Governors of the Federal Reserve System ("FRB"), by regulation or order has determined to be permissible for bank holding companies under section 4(c)(8) of the BHCA, are subject to the provisions of sections 23A and 23B of the FRA, as implemented in proposed new 12 CFR 584.3–1 and 584.3–2. Transactions between an insured institution subsidiary of a savings and loan holding company and its affiliates that are engaged in business activities that the FRB has not determined to be permissible for bank holding companies, or that the Board has determined, by regulation, to not be a permissible nonbanking activity for savings and loan holding companies, will continue to be subject to the provisions of 12 CFR 584.3.[2] In addition, the Board proposes to incorporate the exemption from subsection 408(d) of the NHA provided by new subsection 408(t) of the NHA into Part 584.

Specifically, the Board proposes to (i) amend paragraph (a) of 12 CFR 584.3 to exempt transactions between an insured institution subsidiary of a savings and loan holding company and its affiliates engaged only in permissible savings and loan holding company nonbanking activities ("permissible nonbanking activities") form the provisions of that regulation, (ii) add new paragraph (i) to 12 CFR 584.3 to exempt transactions between an insured institution that is a subsidiary of another insured institution or insured institutions that are at least 80 percent owned by the same holding company and such parent or affiliate insured institutions (and each other's subsidiaries) from the provisions of that section, (iii) add new 12 CFR 584.3–1, which explicitly applies to transactions between an insured institution subsidiary of a savings and loan holding company and its affiliates engaged only in permissible nonbanking activities and incorporates, with certain modifications, the terms and provisions of Section 23A of the FRA into the Board's regulations, and (iv) add new 12 CFR 584.3–2, which explicitly applies to transactions between an insured institution subsidiary of a savings and loan holding company and its affiliates engaged only in permissible nonbanking activities and incorporates, with certain modifications, the terms and provisions of Section 23B of the FRA into the Board's regulations.

New § 584.3(i) incorporates the exemption from the otherwise applicable restrictions on affiliated transactions provided by new subsection 408(t) of the NHA. Pursuant to new § 584.3(i), transactions between (i) a subsidiary insured institution and its parent insured institution (and such parent's subsidiaries) and (ii) insured institutions (and each other's subsidiaries) that are at least 80 percent owned by the same holding company are exempt from the provisions of 12 CFR 584.3. Such transactions will, however, depending upon the types of activities engaged in, be subject to the provisions of proposed new 12 CFR 584.3–1 and 584.3–2.[3] Thus, the exemption provided by new § 584.3(i) will be applicable only when both of the insured institutions involved in a specific transaction, directly or through a subsidiary, are (i) in a parent/subsidiary relationship or (ii) are subject to at least 80 percent common ownership.

The Board wishes to note that transactions between a subsidiary insured institution and its own service corporation subsidiaries are not explicitly covered by new subsection 408(t) of the NHA. Accordingly, the Board is considering whether it is appropriate to continue to apply 12 CFR 584.3 to transactions between subsidiary insured institutions and their own service corporation subsidiaries that are not exclusively engaged in permissible nonbanking activities and, as discussed in greater detail below, the Board specifically solicits comments on that issue.

New 12 CFR 584.3–1 tracks the terms and provisions of section 23A of the FRA with modifications designed to clarify the applicability of such terms and provisions to insured institutions. The new regulations defines "covered transactions" and limits an insured institution's cumulative covered transactions with any one affiliate to no more than 10 percent of the institution's regulatory capital (as defined in 12 CFR 561.13) and with all affiliates, that are engaged exclusively in permissible nonbanking activities, in the aggregate to no more than 20 percent of the institution's regulatory capital. In order to provide for operating flexibility, the regulation delegates authority to an insured institution's Principal Supervisory Agent ("PSA") (as defined in 12 CFR 561.35) to approve covered transactions in excess of the quantative thresholds, provided that the PSA determines that the transaction would not be detrimental to the interests of the savings account holders of the specific insured institution or to the insurance risk of the Corporation with respect to that institution. The Board specifically seeks comment as to the appropriateness of the proposed delegation and whether the PSA approval mechanism also should be available with respect to qualitative criteria contained in section 23A. The Board also specifically requests comments on what recordkeeping requirements would be appropriate for insured institutions to document transactions with affiliates that do not require a specific approval and whether the Board should provide particularized, explicit authority for its supervisory agents to unwind transactions with affiliates that, after review by an examiner and appropriate supervisory staff, are deemed to be unsafe and unsound.

Proposed new 12 CFR 584.3–1(e) lists the exemptions from the provisions of the new regulation. In this regard, the Board specifically requests comment as to whether the exemption, in proposed 12 CFR 584.3–1(e)(2), for giving immediate credit to an affiliate for uncollected items received in the ordinary course of business may expose

[1] See Bd. Res. No. 88–287, 52 FR 15230 (April 28, 1988).

[2] See, Board Res. No. 87–1299, 53 FR 312 (January 6, 1988) in which the Board adopted amendments to its regulations to, among other things, revise 12 CFR 584.2–2 regarding permissible nonbanking activities of savings and loan holding companies.

[3] Generally, transactions directly between insured institutions with the requisite relationship will be exempted from the provisions of proposed 12 CFR 584.3–1. See proposed 12 CFR 584.3–1(e).

an insured institution to undue risk and whether any limitations should be imposed on such extensions of credit.

The definition of affiliate contained in proposed new 12 CFR 584.3–1 modifies the definition of that term in section 23A of the FRA by including as affiliates those subsidiaries of a subsidiary insured institution that are engaged in activities that the insured institution would not be authorized to engage in directly. The proposed definition of affiliate would, in effect, generally remove, subject to safety and soundness considerations, the regulatory prohibitions and limitations on transactions between a subsidiary insured institution and its subsidiaries that are exclusively engaged in permissible nonbanking activities and are not engaged in any activities that the insured institution would not be authorized to engage in directly. Such proposed definition of affiliate would, however, subject transactions between a service corporation subsidiary and its parent institution's other holding company affiliates to the regulatory prohibitions and limitation contained in proposed 12 CFR 584.3–1 and 584.3–2. The Board is aware that application of the definition of affiliate as contained in proposed 12 CFR 584.3–1 would mark a departure from current practice in the thrift industry whereby transactions between a service corporation subsidiary and its parent institution's other holding company affiliates are not subject to the provisions of 12 CFR 584.3. It would, on the other hand, create an additional option for savings and loans that is presently available to insured banks under sections 23A and 23B in the form of the "operating subsidiary", and it would further CEBA's mandate to "level the playing field" between bank and thrift holding companies.

The Board is concerned that utilization of two divergent difinitions of the term "affiliate" will lead to confusion in the thrift industry. Accordingly, as previously noted, the Board is soliciting comments as to the most appropriate manner, under Part 584, to treat (i) transactions between a subsidiary insured institution and its subsidiaries; (ii) transactions between subsidiaries of a subsidiary insured institution and other holding company affiliates of such insured institution; and (iii) transaction between a subsidiary insured institution and affiliates that are not subsidiaries of the holding company. More specifically, the Board solicits comments on the following questions:

(i) Whether and to what extent, transactions between a subsidiary insured institution and its subsidiaries should be subject to any regulatory restrictions? [4]

(ii) Whether and to what extent, transactions between subsidiaries of a subsidiary insured institution and other holding company affiliates of such insured institution should be subject to any regulatory restrictions?

(iii) Whether it is appropriate, for simplicity and uniformity reasons, to treat subsidiaries of subsidiary insured institutions as affiliates in all cases for purposes of Part 584? and;

(iv) Whether and to what extent, distinctions can and should be made between the treatment of affiliates that are holding company subsidiaries and other entities that are currently treated as affiliates, e.g., companies controlled by a natural person that is a controlling person of the holding company?

Proposed new § 584.3–1 requires all covered and exempt transactions between a subsidiary insured institution and its affiliates to be on terms and conditions consistent with safe and sound thrift practices and prohibits an insured institution from purchasing "low-quality" assets (as defined therein) from an affiliate. Finally, the regulation requires that all of a subsidiary insured institution's extensions of credit to an affiliate must be secured by collateral in specified amounts.

New 12 CFR 584.3–2 tracks, with minor modifications (e.g., the term "insured institution" is substituted for "member bank" throughout the regulation), the terms and provisions of Section 23B of the FRA. The new regulation provides that a subsidiary insured institution may engage in certain transactions with an affiliate of the insured institution only if the terms and conditions of the transaction are substantially the same, or at least as favorable to the insured institution, as those prevailing at the time for comparble transactions with nonaffiliated companies. In the absence of comparable transactions, the regulation requires the terms and conditions of the transaction to be the same as those that, in good faith, would be offered to or would apply to nonaffiliatied companies. In addition, an advertising restriction is imposed on insured institutions, their subsidiaries, and affiliates with respect to advertisements stating or suggesting that the insured institution shall in any way be responsible for the obligations of its affiliates.

The Board intends new Sections 584.3–1 and 584.3–2 to apply to transactions between a subsidiary insured institution and those of its affiliates that are exclusively engaged in permissible nonbanking activities. That an affiliate is engaged in more than one permissible nonbanking activity will not affect the applicability of the new provisions provided the affiliate is engaged only in permissible nonbanking activities. In general, new §§ 584.3–1 and 584.3–2 represent a liberalization, dictated by the CEBA, of the transactions with affiliates restrictions applicable to insured institutions and those of their affiliates that are engaged only in permissible nonbanking activities. The new regulations contain their own set of defined terms including: "Covered transaction," "control," "subsidiary," "securities," "low-quality asset," and "permissible nonbanking activity." The proposed new regulation would define the term "insured institution" to have the same meaning as given that term under 12 CFR 583.6.

Initial Regulatory Flexibility Analysis

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

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

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

3. *Impact of the proposed rule on small entities.* The proposed rule would not have a substantial impact on small insured institutions.

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

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

List of Subjects in 12 CFR Part 584

Holding Companies, Savings and loan association, Securities.

Accordingly, the Board hereby proposes to amend Part 584, Subchapter

[4] In this regard the Board notes that, although 12 CFR 583.15 includes a service corporation subsidiary of a subsidiary insured institution within the definition of "affiliate" for purposes of the transactions with affiliates provisions of 12 CFR 584.3, a service corporation subsidiary of an insured institution that is not part of a holding company structure (a "stand alone institution") is not included in the definition of "affiliated person" contained in 12 CFR 561.29 and, therefore, transactions between such stand alone institution and its service corporations would not be subject to comparable transactions with affiliates regulation.

F, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

PART 584—REGULATED ACTIVITIES

1. The authority citation for Part 584 continues to read as follows:

Authority: Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401–403, 405–407, 48 Stat. 1255–1257, 1259–1260, as amended (12 U.S.C. 1724–1726, 1728–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp. p. 1071.

2. Amend § 584.3 by revising the introductory text of paragraph (a); and by adding a new paragraph (i) to read as follows:

§ 584.3 Transactions with affiliates.

(a) *Prohibited transactions.* Except as provided by §§ 584.3–1 and 584.3–2, no subsidiary insured institution of a savings and loan holding company shall:

* * * * *

(i) *Common ownership exemption.* The provisions of this section shall not apply to:

(1) Transactions between an insured institution that is a subsidiary of an insured institution and such parent insured institution (or such parent insured institution's subsidiaries); or

(2) Transactions between insured institution's (and each other's subsidiaries) the voting stock of which is at least 80 percent owned by the same holding company.

An insured institution may not, however, purchase a low quality asset (as defined in § 584.3–1) from another insured institution, and any transaction with another insured institution (or its subsidiaries) under this section must be on terms and conditions that are consistent with safe and sound financial practices.

3. Add new § 584.3–1 to read as follows:

§ 584.3–1 Transactions with affiliates that are exclusively engaged in permissible nonbanking activities.

(a) *Scope of section.* This section, in conjunction with § 584.3–2, exclusively governs transactions between an insured institution subsidiary of a savings and loan holding company or subsidiaries of such institution and those affiliates of the insured institution that are engaged exclusively in permissible nonbanking activities (as defined in paragraph (c) of this section).

(b) *Restriction on transactions with affiliates.* (1) An insured institution and its subsidiaries may engage in a covered transaction with an affiliate that is engaged exclusively in permissible nonbanking activities only if:

(i) In the case of any such affiliate, the aggregate amount of covered transactions of the insured institution and its subsidiaries will not exceed 10 per centum of the regulatory capital of the insured institution (as defined in § 561.13 of this chapter);

(ii) In the case of all such affiliates, the aggregate amount of covered transactions of the insured institution and its subsidiaries will not exceed 20 per centum of the regulatory capital of the insured institution (as defined in § 561.13 of this chapter); and

(iii) In the case of covered transactions in excess of the quantitative limitations contained in paragraphs (b)(1)(i) and (b)(1)(ii) of this section, prior written approval of the Corporation is obtained. Such approval may be granted if the Corporation finds that such covered transaction would not be detrimental to the interests of the savings account holders of the specific insured institution or to the insurance risk of the Corporation with respect to that institution. The Principal Supervisory Agent (as defined in § 561.35 of this chapter) shall have authority to give prior written approval on behalf of the Corporation to any such covered transaction requiring approval under this paragraph (b)(1)(iii), provided that such transaction does not raise a significant issue of law or policy.

(2) For the purpose of this section, any transaction by an insured institution with any person shall be deemed to be a transaction with an affiliate to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that affiliated.

(3) An insured institution may not purchase a low-quality asset from an affiliate unless the insured institution, pursuant to an independent credit evaluation, committed itself to purchase such asset prior to the time such asset was acquired by the affiliate.

(4) Any covered transactions and any transactions exempt under paragraph (e) of this section between an insured institution and an affiliate shall be on terms and conditions that are consistent with safe and sound financial institution practices.

(c) *Definitions.* For the purpose of this section—

(1) The term "affiliate" with respect to an insured institution means—

(i) Any company that controls the insured institution and any other company that is controlled by the company that controls the insured institutions;

(ii) Any insured institution subsidiary of the insured institution;

(iii) Any company—

(A) that is controlled directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the insured institution or any company that controls the insured institution; or

(B) In which a majority of its directors or trustees constitute a majority of the persons holding any such office with the insured institution or any company that controls the insured institution;

(iv)(A) Any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the insured institution or any subsidiary or affiliate of the insured institution; or

(B) Any investment company with respect to which an insured institution or any affiliate thereof is an investment advisor as defined in section 80a–2(a)(20) of Title 15; and

(v) Any company that the Corporation determines by regulation or order to have a relationship with the insured institution or any subsidiary or affiliate of the insured institution, such that covered transactions by the insured institution or its subsidiary with that company may be affected by the relationship to the detriment of the insured institution or its subsidiary; and

(2) The following shall not be considered to be an affiliate.

(i) Any company, other than an insured institution, that is a subsidiary of the insured institution, unless the subsidiary is engaged in activities that the insured institution would not be authorized to engage in directly;

(ii) Any company engaged solely in holding the premises of the insured institution;

(iii) Any company engaged solely in conducting a safe deposit business;

(iv) Any company engaged solely in holding obligations of the United States or its agencies or obligations fully guaranteed by the United States or its agencies as to principal and interest; and

(v) Any company where control results from the exercise of rights arising out a bona fide debt previously contracted, but only for the period of time specifically authorized under applicable State or Federal law or regulation or, in the absence of such law or regulation, for a period of one year from the date of the exercise of such rights or the effective date of this

section, whichever date is later, subject, upon application, to authorization by the Corporation for good cause shown of extensions of time for not more than one year at a time, but such extensions in the aggregate shall not exceed three years;

(3)(i) A company or shareholder shall be deemed to have control over another company if—

(A) Such company or shareholder, directly or indirectly, or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the other company;

(B) such company or shareholder controls in any manner the election of a majority of the directors or trustees of the other company; or

(C) The Corporation determines, after notice and opportunity for hearing, that such company or shareholder, directly or indirectly, exercises a controlling influence over the management or policies of the other company; and

(ii) Notwithstanding any other provisions of this section, no company shall be deemed to own or control another company by virtue of its ownership or control of shares in a fiduciary capacity, except as provided in paragraph (e)(1)(iii) of this section or if the company owning or controlling such shares is a business trust;

(4) The term "subsidiary" with respect to a specified company means a company that is controlled by such specified company;

(5) The term "insured institution" has the same meaning as given that term under § 583.6 of this subchapter.

(6) The term "company" means a corporation, partnership, business trust, association, or similar organization and, unless specifically excluded, the term "company" includes an "insured institution";

(7) The term "covered transaction" means with respect to an affiliate of an insured institution—

(i) A loan or extension of credit to the affiliate;

(ii) A purchase of or an investment in securities issued by the affiliate;

(iii) A purchase of assets, including assets subject to an agreement to repurchase, from the affiliate, except such purchase of real and personal property as may be specifically exempted by the Corporation by order or regulation;

(iv) The acceptance of securities issued by the affiliate as collateral security for a loan or extension of credit to any person or company; or

(v) The issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, on behalf of an affiliate;

(8) The term "aggregate amount of covered transactions" means the amount of the covered transactions about to be engaged in added to the current amount of all outstanding covered transactions;

(9) The term "securities" means stocks, bonds, debentures, notes, or other similar obligations;

(10) The term "low-quality asset" means an asset that falls in any one or more of the following categories:

(i) An asset classified as "substandard", "doubtful", or "loss" or treated as "other assets especially mentioned" in the most recent report of examination or inspection of an affiliate prepared by either a Federal or State supervisory agency;

(ii) An asset in a nonaccrual status;

(iii) An asset on which principal or interest payments are more than thirty days past due; or

(iv) An asset whose terms have been renegotiated or compromised due to the deteriorating financial condition of the obligor; and

(11) The term "permissible nonbanking activities" means those services and activities permissible for bank holding companies pursuant to section 4(c)8 of the Bank Holding Company Act and the regulations and orders thereunder.

(d) *Collateral for certain transactions with affiliates.* (1) Each loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate by an insured institution shall be secured at the time of the transaction by collateral having a market value equal to—

(i) 100 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit, if the collateral is composed of—

(A) Obligations of the United States or its agencies;

(B) Obligations fully guaranteed by the United States or its agencies as to principal and interest;

(C) Notes, drafts, bills of exchange or bankers' acceptances that are eligible for rediscount or purchase by a Federal Reserve Bank; or

(D) A segregated, earmarked deposit account with the insured institution;

(ii) 110 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of obligations of any State or political subdivision of any State;

(iii) 120 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of other debt instruments, including receivables; or

(iv) 130 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of stock, leases, or other real or personal property.

(2) Any such collateral that is subsequently retired or amortized shall be replaced by additional eligible collateral where needed to keep the percentage of the collateral value relative to the amount of the outstanding loan or extension of credit, guarantee, acceptance, or letter of credit at least equal to the minimum percentage required at the inception of the transition.

(3) A low-quality asset shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate.

(4) The securities issued by an affiliate of the insured institution shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, that affiliate or any other affiliate of the insured institution.

(5) The collateral requirements of this paragraph (d) shall not be applicable to an acceptance that is already fully secured either by attached documents or by other property having an ascertainable market value that is at least equal to the credit involved in the transaction.

(e) *Exemptions.* The provisions of this section, except paragraph (b)(4) of this section, shall not be applicable to—

(1) Any transaction, subject to the prohibition contained in paragraph (b)(3) of this section, with an insured institution—

(i) Which controls 80 per centum or more of the voting shares of the insured institution;

(ii) In which the insured institution controls 80 per centum or more of the voting shares; or

(iii) In which 80 per centum or more of the voting shares are controlled by the company that controls 80 per centum or more of the voting shares of the insured institution;

(2) Giving immediate credit to an affiliate for uncollected items received in the ordinary course of business;

(3) Making a loan or extension of credit to, or issuing a guarantee, acceptance, or letter of credit on behalf of, an affiliate that is fully secured by—

(i) Obligations of the United States or its agencies;

(ii) Obligations fully guaranteed by the United States or its agencies as to principal and interest; or

(iii) A segregated, earmarked deposit account with the insured institution;

(4) Purchasing assets having a readily identifiable and publicly available market quotation and purchased at that market quotation or, subject to the prohibition contained in paragraph (b)(3) of this section, purchasing loans on a nonrecourse basis from affiliated insured institutions; and

(5) Purchasing from an affiliate a loan or extension of credit that was originated by the insured institution and sold to the affiliate subject to a repurchase agreement or with recourse.

4. Add new § 584.3–2 to read as follows:

§ 584.3–2 Transactions with affiliates; additional standards.

(a) *Scope of section.* This section, in conjunction with § 584.3–1, exclusively governs transactions between an insured institution subsidiary of a saving and loan holding company or its subsidiaries and affiliates of the insured institution that are engaged exclusively in permissible nonbanking activities (as defined in paragraph (c) of § 584.3–1).

(b) *In general*—(1) *Terms.* An insured institution and its subsidiaries may engage in any of the transactions described in paragraph (b)(2) of this section only—

(i) On terms and under circumstances, including credit standards, that are substantially the same, or at least as favorable to such insured institution or its subsidiary, as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies.

(ii) In the absence of comparable transactions, on terms and other circumstances, including credit standards, that in good faith would be offered to, or would apply to, nonaffiliated companies.

(2) *Transactions covered.* Paragraph (b)(1) of this section applies to the following:

(i) Any covered transaction with an affiliate.

(ii) The sale of securities or other assets to an affiliate, including assets subject to an agreement to repurchase.

(iii) The payment of money or the furnishing of services to an affiliate under contract, lease, or otherwise.

(iv) Any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the insured institution or to any other person.

(v) Any transaction or series of transactions with a third party—

(A) If an affiliate has a financial interest in the third party, or

(B) If an affiliate is a participant in such transaction or series of transactions.

(3) Transactions that benefit an affiliate. For the purpose of this section, any transaction by an insured institution with any person shall be deemed to be a transaction with an affiliate of such insured institution if any of the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate.

(c) *Prohibited transaction*—(1) *In general.* An insured institution or its subsidiary—

(i) Shall not purchase as fiduciary any securities or other assets from any affiliate unless such purchase is permitted—

(A) Under the instrument creating the fiduciary relationship,

(B) By court order, or

(C) By law of the jurisdiction governing the fiduciary relationship; and

(ii) Whether acting as principal or fiduciary, shall not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security if a principal underwriter of that security is an affiliate of such insured institution.

(2) *Exception.* Paragraph (c)(1)(ii) of this section shall not apply if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the insured institution who are not officers or employees of the insured institution or any affiliate thereof.

(3) *Definitions.* For the purpose of this paragraph (c)(3)

(i) The term "security" has the meaning given to such term in section 3(a)(10) of the Securities Exchange Act of 1934; and

(ii) The term "principal underwriter" means any underwriter who, in connection with a primary distribution of securities—

(A) Is in privity of contract with the issuer or any affiliated person of the issuer;

(B) Acting alone or in concert with one or more other persons, initiates or directs the formation of an underwriting syndicate; or

(C) Is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.

(D) *Advertising restriction.* An insured institution or any subsidiary or affiliate of an insured institution shall not publish any advertisement or enter into any agreement stating or suggesting that the insured institution shall in any way be responsible for the obligations of its affiliates.

(e) *Definitions.* For the purpose of this section—

(1) The term "affiliate" has the meaning given to such term in § 584.3–1 of this Subchapter (but does not include any company described in paragraph (c)(2) of such seciton or any "insured institution");

(2) The terms "insured institution", "subsidiary", "person", "permitted activities" and "security" (other than security as used in paragraph (c) of this section) have the meanings given to such terms in § 584.3–1 of this subchapter; and

(3) The term "covered transaction" has the meaning given to such term in § 584.3.–1 of this Subchapter (but does not include any transaction which is exempt from such definition under paragraph (e) of such section).

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Assistant Secretary.

[FR Doc. 88–13067 Filed 6–8–88; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4 and 16

[Docket No. RM87–33–000]

Hydroelectric Relicensing Regulations Under the Federal Power Act

May 24, 1988.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to revise its regulations governing the relicensing of hydroelectric power projects. The proposed changes include revised requirements for an application for a new license, a process for pre-filing consultation with resource agencies, and new standards and factors for evaluating relicensing application. The proposed rule also revises the procedures for an application for a nonpower license, a minor license, and an exemption from licensing upon expiration of an existing license. The Commission proposes new provisions relating to acceleration of a license expiration date and site access for

potential competing applicants. This proposal implement, in part, changes to the Federal Power Act made by the Electric Consumers Protection Act of 1986.

DATE: An original and 14 copies of the written comments on this proposed rule must be filed with the Commission by September 8, 1988.

ADDRESS: All filings should refer to Docket No. RM87–33–000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Robert E. Gian, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (202) 357–8530.

SUPPLEMENTARY INFORMATION: This is a summary of a Notice of Proposed Rulemaking in Docket No. RM87–33–000 issued May 24, 1988. All persons interested in obtaining the full text of this document for inspection and copying may do so during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street NE., Washington, DC 20426. In addition, the Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357–8997. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

The Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act of 1980, that the proposed relicensing regulations, is promulgated, will not have a significant economic impact on a substantial number of small entities, or that, even if the rule were to have a significant economic impact on a substantial number of small entities, it will be to their benefit.

The Paperwork Reduction Act [1] and the Office of Management and Budget's (OMB) regulations [2] require that OMB approve certain information collection requirements imposed by agency rule. The provisions of this proposed rule have been submitted to OMB for its approval. Interested persons can obtain information on those provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. (Attention: Marian Obis, Office of Information and Resource Management (202) 357–8173). Comments on the informaiton collection provisions of this proposed rule can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

The Commission has determined that no environmental assessment or environmental impact statement is necessary for the requirements proposed in this NOPR.[3] The Commission has categorically excluded certain actions from the requirement that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment. The proposed rule is procedural in nature and therefore falls within one of the categorical exclusions.

List of Subjects

18 CFR Part 4

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 16

Electric power.

In consideration of the foregoing, the Commission proposes to amend Parts 4 and 16 of Chapter I, Title 18, Code of Federal Regulations.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

1. The authority citation for Part 4 continues to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r, as amended by the Electric Consumers Protection Act of 1986, Pub. L. 99–495; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645 (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142.

2. Section 4.60 is amended by adding a new paragraph (c) to read as follows:

§ 4.60 Applicability and notice to agencies.

* * * * *

(c) Unless an applicant for a license for a minor water power project requests in its application that the Commission apply the following provisions of Part I of the Federal Power Act when it issues a minor license for a project, the Commission will waive:

(1) Section 4(b), insofar as it requires a licensee to file a statement showing the actual legitimate costs of construction of a project;

(2) Section 4(e), insofar as it relates to approval by the Chief of Engineers and the Secretary of the Army of plans affecting navigation;

(3) Section 6, insofar as it relates to the acceptance and expression in the license of terms and conditions of the Federal Power Act that are waived in the licensing order;

(4) Section 10(c), insofar as it relates to a licensee's maintenance of depreciation reserves;

(5) Sections 10(d) and 10(f);

(6) Section 14, with the exception of the right of the United States or any state or municipality to take over, maintain, and operate a project through condemnation proceedings; and

(7) Sections 15, 16, 19, 20 and 22.

3. In § 4.61, paragraph (f)(3) is revised to read as follows:

§ 4.61 Contents of application.

* * * * *

(f) * * *

(3)(i) If an application for a license for a minor water power project that will not occupy any public lands or reservations of the United States does not contain a statement that the applicant requests the Commission to apply the provisions of Part I of the Federal Power Act enumerated in § 4.60(c), the applicant:

(A) Must provide a reasonably accurate description of all project works and features; and

(B) Must identify, in Exhibit G of its application, the owners of all lands necessary for the construction and operation of the project, but

(C) Need not show a project boundary.

(ii) If an application for a license for a minor water power project contains a statement that the applicant requests the Commission to apply the provisions of Part I of the Federal Power Act enumerated in § 4.60(c), the applicant must show the project boundary on the map it submits as Exhibit G to its application, as specified in § 4.41(h)(2).

(iii) If an application for a license for a minor water power project proposes that the project would occupy any public lands or reservations of the United States, the applicant must show the

[1] 44 U.S.C. 3501–3520 (1982).

[2] 5 CFR Part 1320 (1987).

[3] Regulations Implementing National Environmental Policy Act, 52 FR 47 897 (Dec. 17, 1987) (to be codified at 18 CFR Part 380).

project boundaries on public lands and reservations on the map it submits as Exhibit G to its application, as specified in § 4.41(h)(2).

* * * * *

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

4. The authority citation for Part 16 continues to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r as amended by the Electric Consumers Protection Act of 1986, Pub. L. 99–495; Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142.

5. Sections 16.1 through 16.5 are revised and designated Subpart A, to read as follows:

Subpart A—General Provisions

Sec.

Subpart A—General Provisions

§ 16.1 Applicability and purpose.

This part applies to the filing and processing of an application for:

(a) A new license, a nonpower license, or an exemption from licensing for a hydroelectric project with an existing license subject to the provisions of sections 14 and 15 of the Federal Power Act.

(b) A new license or an exemption from licensing for a hydroelectric project with an existing minor license or minor part license not subject to the provisions of sections 14 and 15 of the Federal Power Act because those sections were waived pursuant to section 10(i) of the Federal Power Act.

§ 16.2 Definitions.

For purposes of this part:

(a) "New license" means a license, except an annual license, for a water power project that is issued under Section 15 of the Federal Power Act after an initial license expires.

(b) "New license application filing deadline", as provided in section 15(c)(1) of the Federal Power Act, is the date 24 months before the expiration of an existing license.

(c) "Nonpower license" means a license for a nonpower project.

(d) "Resource agency" means a Federal or state agency with responsibilities in the area of flood control, navigation, irrigation, recreation, fish or wildlife, or cultural or other relevant resources of the state in which a project is or will be located.

§ 16.3 Public notice of projects under expiring licenses.

In addition to the notice of a licensee's intent to file or not to file an application for a new license provided in § 16.6(d), the Commission will publish a table showing the projects whose licenses will expire during the succeeding five years in its annual report in the **Federal Register**. The table will:

(a) List the licenses according to their expiration dates and

(b) Contain the following information: license expiration date; licensee's name; project number; type of principal project work licensed, *e.g.*, dam and reservoir, powerhouse, transmission lines; location by state, county, and stream; location by city or nearby city when appropriate; whether the existing license is subject to sections 14 and 15 of the Federal Power Act; and plant installed capacity.

§ 16.4 Acceleration of a license expiration date.

(a) *Request for acceleration.* (1) A licensee wishing to install new capacity at its project may file with the Commission, in accordance with the formal filing requirements in Subpart T of Part 385 of this chapter, a written request for acceleration of the expiration date of its existing license, containing the statements and information specified in § 16.6(b).

(2) The Commission will deem a request for acceleration to be a notice of intent under § 16.6 and the filing of a request for acceleration will obligate the licensee to make available the information specified in § 16.7.

(b) *Notice of request for acceleration.* Upon receipt of a request for acceleration, the Commission will give notice of the licensee's request and provide a 45-day period for comments by interested persons by:

(1) Publishing notice in the **Federal Register**;

(2) Publishing notice once every week for four weeks in a daily or weekly newspaper published in the county or counties in whch the project or any part thereof or the lands affected thereby are situated; and

(3) Notifying appropriate Federal and state resource agencies by mail.

(c) *Commission order.* If it is in the public interest, the Commission will issue an order accelerating the expiration date of the license to five years from the date of the Commission order.

§ 16.5 Site access for a competing applicant.

After an existing licensee has filed a notice of intent under § 16.6, if a potential applicant for a new license or a nonpower license for a project has complied with the first stage consultation provisions of § 16.8(b)(1) and has notified the existing licensee in writing, the existing licensee must allow the potential applicant to enter upon or into designated land, buildings, or other property in the project area at a reasonable time and under reasonable conditions, including reasonable liability conditions, conditions for compensation to the existing licensee for energy generation lost as a result of modification of project operations that may be necessary to provide access, and in a manner that will not adversely affect the environment, for the purposes of:

(a) Conducting a study or gathering information required by a resource agency under § 16.8 or by the Commission pursuant to § 4.32 of this chapter, or

(b) Holding a site visit for a resource agency under § 16.8.

§ 16.15 [Redesignated as § 16.6]

6. Section 16.15 is redesignated as § 16.6.

§ 16.7 [Removed]

7. Section 16.7 is removed.

§ 16.16 [Redesignated as § 16.7]

8. Section 16.16 is redesignated as § 16.7.

9. Sections 16.8 through 16.13 are revised to read as follows and, together with newly redesignated §§ 16.6 and 16.7, are designated as Subpart B.

Subpart B—Applications for Projects Subject to Sections 14 and 15 of The Federal Power Act

* * * * *

§ 16.8 Consultation requirements.

(a) *Requirement to consult.* (1) Before it files an application for a new license, a nonpower license, an exemption from licensing, or a surrender of a project, a potential applicant must consult with the relevant Federal and state resource agencies, including the National Marine Fisheries Service, the United States Fish and Wildlife Service, the Federal agency administering any United States lands utilized or occupied by the project, the appropriate state fish and wildlife agencies, and the certifying agency under section 401 of the Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. 1341.

(2) The Director of the Office of Hydropower Licensing or the Regional Director responsible for the area in which the project is located will provide a list of known appropriate Federal and state resource agencies upon request.

(b) *First stage of consultation.* (1) A potential applicant must provide each of the appropriate resource agencies and the Commission with the following information:

(i) Detailed maps showing proper land descriptions of the entire project area by township, range, and section, as well as by state, county, river, river mile, and closest town, and also showing the specific location of all existing and proposed project facilities, including roads, transmission lines, and any other appurtenant facilities;

(ii) A general engineering design of the existing project and any proposed changes, with a description of any exisiting or proposed diversion of a stream through a canal or a penstock;

(iii) A summary of the existing operational mode of the project and any proposed changes;

(iv) Identification of the environment affected or to be affected, the significant resources present, and the applicant's existing and proposed environmental protection, mitigation, and enhancement plans, to the extent known at that time;

(v) Streamflow and water regime information, both existing and proposed, including drainage area, natural flow periodicity, monthly flow rates and durations, mean flow figures illustrating the mean daily streamflow curve for each month of the year at the point of diversion or impoundment, with location of the stream gauging station, the method used to generate the streamflow data provided, and copies of all records used to derive the flow data used in the applicant's engineering calculations; and

(vi) A tentative schedule and location for the initial meetings or conference calls provided for in paragraph (b)(2) of this section.

(2) After each agency has had 30 days to review the information submitted by the potential applicant under paragraph (b)(1) of this section, the potential applicant will:

(i) Hold a joint meeting(s) or conference call(s), including an opportunity for a site visit, with all pertinent agencies to review the information and to determine the data and studies to be provided by the potential applicant as part of the consultation process, and

(ii) Inform the Commission in advance of the time and place of each meeting or conference call.

(3) Thirty days after the meeting or conference call held under paragraph (b)(2) of this section during which there is agreement by all participants that all the information required by § 16.8(b)(1) has been provided, an agency will provide a potential applicant with written comments identifying its final determination of necessary studies to be performed or information to be provided by the potential applicant.

(4)(i) If a potential applicant disagrees with a resource agency either as to whether a study is reasonable and necessary or as to the manner in which a study should be performed, the potential applicant may refer the request to the Director of the Office of Hydropower Licensing for resolution if:

(A) The study is not routinely conducted on the type of project proposed, or

(B) The manner in which the resource agency has required that the study be performed is not routinely used on the type of project proposed.

(ii) If the potential applicant does not refer the request for a study under paragraph (b)(4)(i) of this section or if the potential applicant disagrees with the Director's determination and does not conduct a requested study or conducts a study in a manner different from that requested, the potential applicant must fully explain the basis for its disagreement in its application.

(5) The first stage of consultation ends when all participating agencies provide the written comments required under paragraph (b)(3) of this section.

(c) *Second stage of consultation.* (1) A potential applicant must conduct its own studies independently of any other applicant, unless the potential applicant and any other potential applicant agree to do otherwise, and

(2) A potential applicant is not obligated to share the results of a study with a competing applicant.

(3) A potential applicant must perform all reasonable studies and obtain all information requested under paragraph (b) of this section:

(i) Prior to filing the application, if the results:

(A) Would influence the financial (*e.g.* minimum flow study) or technical feasibility of the project (*e.g.* study of potential mass soil movement); or

(B) Are needed to determine the design or location of project features, the impact of the project on important natural or cultural resources (*e.g.* resource surveys), suitable mitigation measures, or to minimize impact on significant resources (*e.g.* wild and scenic river, anadromous fish, endangered species, caribou migration routes);

(ii) After a new license is issued, if the studies can be conducted only after construction or operation of proposed facilities (*e.g.* turbine-related fish mortality studies), would determine the success of mitigation measures (*e.g.* post-construction monitoring studies), or would be used to refine project operation or modify project facilities.

(4)(i) If, after the end of the first stage of consultation in paragraph (b)(5) of this section, a resource agency requests that the potential applicant conduct a study not previously identified, the potential applicant will promptly initiate the study, unless the Director of the Office of Hydropower Licensing determines under paragraph (b)(3) of this section that the study is unreasonable or unnecessary.

(ii) The study results will be treated as additional information, and

(iii) Filing and acceptance of an application will not be delayed because the study is not complete before the application is filed.

(5) A potential applicant must provide each agency with:

(i) A copy of its draft application that:

(A) Indicates the type of application the potential applicant expects to file with the Commission, and

(B) Responds to any comments and recommendations made by any resource agency during the first stage of consultation;

(ii) The results of all studies requested by that resource agency in the first stage of consultation, including a discussion of the results and any proposed mitigation and enhancement measures; and

(iii) A written request for review and comment.

(6) A resource agency will have 60 days to provide written comments on the information submitted by a potential applicant under paragraph (c)(5) of this section.

(7) If the written comments provided under paragraph (c)(6) indicate that a resource agency has a substantive disagreement with a potential applicant's proposed mitigation and enhancement measures, the potential applicant will:

(i) Hold a joint meeting(s) or conference call(s) with all pertinent resource agencies to discuss and to attempt to reach agreement on its plan for environmental mitigation and enhancement measures, and

(ii) Inform the Commission in advance of the time and place of each meeting or conference call.

(8) The potential applicant and the resource agencies may conclude the second stage or consultation with a document embodying any agreement among them regarding environmental

mitigation and enhancement measures and any issues that are unresolved.

(9) The potential applicant must describe all disagreements with a resource agency on technical or environmental mitigation or enhancement measures in its application, including an explanation of the basis for the applicant's disagreement with the resource agency.

(10) A potential applicant may file an application with the Commission if:

(i) It has complied with paragraphs (c)(5) and (6) and no resource agency has responded with substantive disagreements, or

(ii) It has complied with paragraph (c)(7), if any resource agency has responded with substantive disagreements.

(11) The end of the second stage of consultation is the filing of an application.

(d) *Third stage of consultation.* When an applicant files such application documents with the Commission, it must serve on every resource agency consulted, and any state, municipal, interstate, or Federal agency which is authorized to assume regulatory supervision over the land, waterways, and facilities to be included within the nonpower project, a copy of:

(1) Its application for a new license, a nonpower license, an exemption from licensing, or a surrender of the project; and

(2) Any deficiency correction, revision, supplement, or amendment to the application.

(e) *Resource agency waiver of compliance with consultation requirements.* (1) If all the appropriate resource agencies waive or are deemed to have waived, compliance with any requirement of this section, the applicant need not comply with that requirement.

(2) A resource agency is deemed to have waived compliance with the requirements of this section if the resource agency fails to:

(i) Participate in a joint meeting or conference call under paragraph (b)(2) or (c)(7) of this section;

(ii) Identify any necessary data or studies under paragraph (b)(5) of this section; or

(iii) Provide written comments under paragraph (c)(6) of this section.

(f) *Application requirements documenting consultation and any disagreements with resource agencies.* An applicant must show in Exhibit E of its application that it has met the requirements of paragraphs (b) through (d) of this section, and must include:

(1) Any resource agency letter containing comments, recommendations, and proposed terms and conditions;

(2) Notice of any remaining disagreement with a resource agency on:

(i) The need for a study or the manner in which a study should be conducted and the applicant's reasons for disagreement, and

(ii) Information on any environmental mitigation or enhancement measure, including the basis for the applicant's disagreement with the resource agency.

(3) With regard to certification requirements for a license applicant under section 401 of the Clean Water Act:

(i) A copy of the water quality certification, or

(ii) A copy of the request for certification, including proof of the date on which the certifying agency received the request in accordance with applicable law governing filings with that agency;

(4) Evidence of any waivers under paragraph (e) of this section or § 16.10(a)(13)(ii);

(5) Evidence of all attempts to consult with a resource agency, copies of related documents showing the attempts, and documents showing the conclusion of the second stage of consultation;

(6) An explanation of how and why the project would, would not, or should not, comply with relevant comprehensive state and regional water resource development plans and programs.

(g) *Confidentiality of pre-filing submissions.* If a potential applicant requests confidential treatment of any information in its pre-filing submissions, the Commission will treat that requrest in accordance with the confidentiality provisions in § 388.112 of this chapter.

§ 16.9 Applications for new licenses and nonpower licenses for projects subject to sections 14 to 15 of the Federal Power Act.

(a) *Applicability.* This section applies to an applicant for a new license or nonpower license for a project subject to sections 14 and 15 of the Federal Power Act.

(b) *Filing requirement.* (1) Except as provided in paragraph (b)(2) of this section, an applicant for a license under this section must file its application at least 24 months, but no more than 30 months, before the existing license expires.

(2) The requirement in paragraph (b)(1) of this section does not apply if an applicant has filed an application for a new license or nonpower license more than 30 months before the license expired and before September 8, 1988.

(3) An application for a license under this section msut meet the requirement of § 4.32 (except that an applicant will have until 18 months before the expiration of the existing license to correct a deficiency in its application), and as appropriate, §§ 4.41, 4.51, or 4.61 of this chapter.

(4) The requirements of § 4.35 of this chapter do not apply to a license under this section, except that the Commission will reissue a public notice of application in accordance with the provisions of § 16.9(d).

(5) If the Commission rejects or dismisses an application pursuant to the provisions of § 4.32 of this chapter, the application may not be refiled after the new license application filing deadline specified in § 16.9(b).

(c) *Deficiency notices and final amendments.* (1) The Office of Hydropower Licensing will review an application filed under this section and will notify the applicant of any deficiency within 90 days of the filing of the application.

(2) All amendments to an application, including correction of any deficiency and the final amendment, must be filed with the Commission no later than 18 months before the existing license for the project expires.

(d) *Commission notice.* (1) Upon acceptance of an application for a new license or a nonpower license, the Commission will give notice of the application and of the dates for comment, intervention, and protests by:

(i) Publishing notice in the **Federal Register**;

(ii) Publishing notice in a daily or weekly newspaper published in the county or counties in which the project or any part thereof or the lands affected thereby are situated; and

(iii) Notifying appropriate Federal and state resource agencies by mail.

(2) Within 60 days after the new license application filing deadline, the Commission will issue a notice on the processing deadlines established under § 4.32 of this chapter, estimated dates for further processing deadlines under § 4.32 of this chapter, and on any final amendment deadline established under paragraph (c) of this section and will:

(i) Publish the notice in the **Federal Register**;

(ii) Provide the notice to appropriate Federal and state resource agencies, and

(iii) Serve the notice on all parties to the proceedings pursuant to § 385.2010 of this chapter.

§ 16.10 Information to be provided by applicant for new license.

(a) *Information to be supplied by all applicants.* All applicants for a new license under this part must file the following information with the Commission:

(1) A discussion of the plans and ability of the applicant to operate and maintain the project in a manner most likely to provide efficient and reliable electric service, including efforts and plans to:

(i) Increase capacity or generation at the project;

(ii) Coordinate the operation of the project with any upstream or downstream water resource projects; and

(iii) Coordinate the operation of the project with the applicant's or other electrical systems to minimize the cost of production.

(2) A discussion of the need of the applicant over the short and long term for the electricity generated by the project, including:

(i) The reasonable costs and reasonable availability of alternative sources of power that would be needed by the applicant or its customers if the applicant is not granted a license for the project.

(ii) A discussion of the license in fuel, capital, and any other costs that would be incurred by the applicant or its customers to purchase or generate power necessary to replace the output of the licensed project, if the applicant is not granted a license for the project.

(iii) The effect of each alternative source of power on:

(A) The applicant's customers;

(B) The applicant's operating and load characteristics; and

(C) The communities served or to be served, including any reallocation of costs associated with the transfer of a license from the existing licensee.

(3) The following data showing need and the reasonable cost and availability of alternative sources of power:

(i) The average annual cost of the power produced by the project, including the basis for the calculation;

(ii) The projected resources required by the applicant to meet the applicant's capacity and energy requirements over the short and long term including:

(A) Energy and capacity resources, including the contributions from the applicant's generation, purchases, and load modification measures (such as conservation, if considered as a resource), as separate components of the total resources required;

(B) A reasonable analysis, including a statement of system reserve margins to be maintained for energy and capacity; and

(C) If load management measures are not viewed as resources, the effects of such measures on the projected capacity and energy requirements indicated separately;

(iii) For alternative sources of power, including generation of additional power at existing facilities, restarting deactivated units, the purchase of power off-system, the construction or purchase and operation of a new power plant, and load management measures such as conservation:

(A) The total annual cost of each alternative source of power to replace project power;

(B) The basis for the determination of projected annual cost; and

(C) A discussion of the relative merits of each alternative, including the issues of the period of availability and dependability of purchased power, average life of alternatives, relative equivalent availability of generating alternatives, and relative impacts on the applicant's power system reliability and other system operating characteristics; and

(iv) The effect on the direct providers (and their immediate customers) of alternate sources of power.

(4) If an applicant uses power for its own industrial facility and related operations, the effect of obtaining or losing electricity from the project on the operation and efficiency of such facility or related operations, its workers, and the related community.

(5) If an applicant is an Indian tribe applying for a license for a project located on the tribal reservation, a statement of the need of such tribe for electricity generated by the project to foster the purposes of the reservation.

(6) A comparison of the impact on the operations and planning of the applicant's transmission system of receiving or not receiving the project license, including:

(i) An analysis of the effects of any resulting redistribution of power flows on line loading (with respect to applicable thermal, voltage, or stability limits), line losses, and necessary new construction of transmission facilities or upgrading of existing facilities, together with the cost impact of these effects;

(ii) An analysis of the advantages that the applicant's transmission system would provide in the distribution of the project's power; and

(iii) Detailed single-line diagrams, including existing system facilities identified by name and circuit number, that show system transmission elements in relation to the project and other principal interconnected system elements. Power flow and loss data that represent system operating conditions may be appended if applicants believe such data would be useful to show that the operating impacts described would be beneficial.

(7) If the applicant has plans to modify existing project facilities or operations, a statement of the need for, or usefulness of, the modifications, including at least a reconnaissance-level study of the effect and projected costs of the proposed plans and any alternate plans, which in conjunction with other developments in the area would be best adapted to comprehensive development of the river basin.

(8) If the applicant has no plans to modify existing project facilities or operations, at least a reconnaissance-level study to show that the project facilities or operations in conjunction with other developments in the area would be best adapted to comprehensive development of the river basin and could not or should not be modified to improve development of the site.

(9) A statement describing the applicant's financial and personnel resources to meet its obligations under a new license.

(10) If an applicant proposes to expand the project to encompass additional lands, a statement that the applicant has notified, by certified mail, property owners on the additional lands to be encompassed by the project and governmental agencies and subdivisions likely to be interested in or affected by the proposed expansion.

(11) A statement regarding the extent to which the project is consistent with any state or Federal comprehensive plan for improving or developing a waterway, as described in § 2.19 of this chapter, unless the applicant has already provided that information in its documentation of the consultation process under § 16.8(f)(6).

(12) The applicant's electricity consumption efficiency improvement program, as defined under section 10(a)(2)(C) of the Federal Power Act, including:

(i) A statement of the applicant's record of encouraging or assisting its customers to conserve electricity and a description of its plans and capabilities for promoting electricity conservation by its customers; and

(ii) A statement describing the compliance of the applicant's energy conservation programs with any applicable regulatory requirements.

(13)(i) A request for certification under section 401(a)(1) of the Clean Water Act, if the applicant is filing:

(A) An application for a new license; or

(B) Any material amendment, as defined under § 4.35(b) of this chapter, to plans of development proposed in an application for a license.

(ii) A certifying agency is deemed to have waived the certification requirements of section 401(a)(1) of the Clean Water Act under the same circumstances as set out in § 4.38(e)(2) of this chapter.

(b) *Information to be provided by an applicant who is an existing licensee.* An existing licensee that applies for a new license must provide:

(1) The information specified in paragraph (a) of this section.

(2) A statement of measures taken or planned by the licensee to ensure safe management, operation, and maintenance of the project, including:

(i) A description of existing and planned operation of the project during flood conditions;

(ii) A discussion of any warning devices used to ensure downstream public safety;

(iii) A discussion of any proposed changes to the operation of the project or downstream development that might affect the existing Emergency Action Plan, as described in Subpart C of Part 12 of this chapter, on file with the Commission;

(iv) A description of existing and planned monitoring devices to detect structural movement or stress, seepage, uplift, equipment failure, or water conduit failure, including a description of the maintenance and monitoring programs used or planned in conjunction with the devices; and

(v) A discussion of the project's employee safety and public safety record, including the number of lost-time accidents involving employees and the record of injury or death to the public within the project boundary.

(3) A description of the current operation of the project, including any constraints that might affect the manner in which the project is operated.

(4) A discussion of the history of the project and record of programs to upgrade the operation and maintenance of the project.

(5) A summary of any generation lost at the project over the last five years because of unscheduled outages, including the cause, duration, and corrective action taken.

(6) A discussion of the licensee's record of compliance with the terms and conditions of the existing license, including a list of all incidents of noncompliance, their disposition, and any documentation relating to each incident.

(7) A summary of any acquisition of land or land rights associated with the project.

(8) A summary of the ownership and operating expenses that would be reduced if the project license were transferred from the existing licensee.

(9) A statement of annual fees paid under Part I of the Federal Power Act for the use of any Federal or Indian lands included within the project boundary.

(c) *Information to be provided by all applicants other than existing licensee.* An applicant that is not an existing licensee must provide:

(1) The information specified in paragraph (a) of this section.

(2) A statement of the applicant's plans to manage, operate, and maintain the project safely, including:

(i) A description of the differences between the operation and maintenance procedures planned by the applicant and the operation and maintenance procedures of the existing licensee;

(ii) A discussion of any measures proposed by the applicant to implement the existing licensee's Emergency Action Plan, as described in Subpart C of Part 12 of this chapter, and any proposed changes;

(iii) A description of the applicant's plans to continue safety monitoring of existing project instrumentation and any proposed changes; and

(iv) A statement indicating whether or not the applicant is requesting the licensee to provide transmission services under section 15(d) of the Federal Power Act.

(d) *Extended dealine for certain applicants.* If an applicant must file an application under § 16.9 within 90 days from September 8, 1988, that applicant may provide the information required in this section (except for that specified in paragraph (a)(1)) within 90 days from the date on which it files the application.

§ 16.11 Nonpower licenses.

(a) *Information to be provided by all applicants for nonpower licenses.* (1) An applicant for a nonpower license must provide the following information with its application:

(i) The information required by § 4.51 or § 4.61 of this chapter;

(ii) A description of the nonpower purpose for which the project is to be used;

(iii) A showing of how the nonpower use conforms to a comprehensive plan for improving or developing a waterway(s) for beneficial uses;

(iv) A statement of any impact that converting the project to nonpower use may have on the power supply of the system served by the project, including the additional cost of power if an alternative generating source is used to offset the loss of the project's generation;

(v) The state, municipal, interstate, or Federal agency, which is authorized and willing to assume regulatory supervision over the land, waterways, and facilities to be included within the nonpower project;

(iv) Copies of written communication and documentation of oral communication that the applicant may have had with any jurisdictional agency or governmental unit authorized and willing to assume control over the project and the period of time during which the agency or unit would exercise control;

(vii) A statement that demonstrates that the applicant has complied with the requirements of § 16.8(d)(2);

(viii) A proposal that shows the manner in which the applicant plans to remove or otherwise dispose of the project's power facilities;

(ix) Any proposal to repair or rehabilitate any nonpower facilities;

(x) A statement of the costs associated with removing the project's power facilities and with any necessary restoration and rehabilitation work; and

(xi) A statement that demonstrates that the applicant has resources to ensure the integrity and safety of the remaining project facilities and to maintain the nonpower functions of the project until the governmental unit or agency assumes control over the project.

(2) If an applicant must file an application for a nonpower license under § 16.9 within 90 days from September 8, 1988, that applicant may provide information required in paragraph (a) of this section (except the information specified in paragraph (a)(1)(i)), within 90 days drom the date it files the application.

(b) *Termination of a proceeding for a nonpower license.* The Commission may deny an application for a nonpower license and turn the project over to any any agency that has jurisdiction over the land or reservations if:

(1) An existing project is located on public lands or reservations of the United States,

(2) Neither the existing licensee nor any other entity has filed an application for a new license for the project,

(3) No one has filed a recommendation to take over the license pursuant to § 16.14, and

(4) The agency that has jurisdiction over the land or reservations demonstrates that it is able and willing to:

(i) Accept responsibility for the nonpower use of the project, and

(ii) Pay the existing licensee for its net investment in the project and any severance damages specified in section 14(a) of the Federal Power Act.

(c) *Duration of nonpower license.* A nonpower license is effective until:

(1) The Commission determines that a state, municipal, interstate, or Federal agency has jurisdiction over, and is willing to assume responsibility for, the land, waterways, and facilities included within the nonpower license; or

(2) The Commission approves a plan for removal of project structures and restoration of the land, the project structures are removed, and the land is restored.

§ 16.12 Application for exemption from licensing by a licensee whose license is subject to sections 14 and 15 of the Federal Power Act.

(a) An existing licensee whose license is subject to sections 14 and 15 of the Federal Power Act may apply for an exemption for the project.

(b) An applicant for an exemption under paragraph (a) of this section must meet the requirements of Subpart K or Subpart J of Part 4 of this chapter, and §§ 16.5, 16.6, 16.7, 16.8, 16.9 (b) and (d), 16.10(a) (2) through (13), 16.10(b), 16.10(d), and 16.9(c) (except (1)(ii)).

(c) The Commission will process an application by an existing licensee for an exemption for the project in accordance with §§ 16.9(c) (1)(i), (2), (3), (4), (5), and 16.9(e).

(d) If a license application is filed in competition with an application for exemption filed by the existing licensee, the Commission will decide among the competing applications in accordance with the standards of § 16.13(a) and not in accordance with the provisions of § 4.37(d)(2) of this chapter.

§ 16.13 Standards and factors for issuing a new license.

(a) The Commission will consider the following factors to determine whether a final proposal for a new license under section 15 of the Federal Power Act is best adapted to serve the public interest:

(1) The plans and ability of the applicant to comply with the terms and conditions of a license;

(2) The plans and ability of the applicant to manage, operate, and maintain the project safely, and in a manner most likely to provide efficient and reliable electric service;

(3) The need of the applicant over the short and long term for the electricity generated by the project or projects to serve its customers;

(4) If the applicant is an Indian tribe applying for a license for a project located on the tribal reservation, a statement of the tribe's need for electricity generated by the project;

(5) The existing and planned transmission services of the applicant, including system reliability, costs, and other applicable economic and technical factors;

(6) Whether the plans of the applicant will be achieved, to the greatest extent possible, in a cost-effective manner;

(7) The provisions of section 10 of the Federal Power Act.

(b) If there are only insignificant differences between the final applications of an existing licensee and a competing applicant after consideration of the factors enumerated in paragraph (a) of this section, the Commission will base its decision on the existing licensee's record of compliance with the terms and conditions of the existing license.

(c) An existing licensee that files an application for a new license in conjunction with an entity or entities that are not currently licensees of the project will not be considered an existing licensee for purposes of section 15 of the Federal Power Act and Part 16 of these regulations.

10. Section 16.14 is revised and §§ 16.15 through 16.17 are added and designated as Subpart C, to read as follows:

Subpart C—Takeover Provisions for Projects Subject to Sections 14 and 15 of The Federal Power Act

Sec.

16.14 Departmental recommendation for takeover.

16.15 Commission recommendation to Congress.

16.16 Motion for stay by Federal department or agency.

16.17 Procedures upon Congressional authorization of takeover.

Subpart C—Takeover Provisions for Projects Subject to Sections 14 and 15 of the Federal Power Act

§ 16.14 Departmental recommendation for takeover.

(a) A Federal department or agency may file a recommendation that the United States exercise its right to take over a hydroelectric power project with a license that is subject to sections 14 and 15 of the Federal Power Act. The recommendation must:

(1) Be filed no earlier than five years before the license expires and no later than the end of the comment period specified by the Commission in:

(i) A notice of application for a new license, a nonpower license, or an exemption for the project, or

(ii) A notice of an amendment to an application for a new license, a nonpower license, or an exemption;

(2) Be filed in accordance with the formal requirements for filings in Subpart T of Part 385 of the Commission's regulations and be served on each relevant Federal and state resource agency, all applicants for new license, nonpower license or exemption, and any other party to the proceeding;

(3) Specify the project works that would be taken over by the United States;

(4) Describe the proposed Federal operation of the project, including any plans for its redevelopment, and discuss the manner in which takeover would serve the public interest as fully as non-Federal development and operation; and

(5) State whether the agency intends to undertake the operation of the project.

(b) A department or agency that files a takeover recommendation becomes a party to the proceeding.

(c) An applicant for a new license, a nonpower license, or an exemption that involves a takeover recommendation may file a reply to the recommendation, within 120 days from the date the takeover recommendation is filed with the Commission. The reply must be filed with the Commission in accordance with Part 385 of the Commission's regulations and the applicant must serve a copy of such a reply on the agency recommending the takeover and on any other party to the proceeding.

§ 16.15 Commission recommendation to Congress.

Upon receipt of a recommendation from any Federal department or agency, a proposal of any party, or on the Commission's own motion, and after notice and opportunity for hearing, the Commission may determine that a project may be taken over by the United States, issue an order on its findings and recommendations, and forward a copy to Congress.

§ 16.16 Motion for stay by Federal department or agency.

(a) Within 30 days of the date on which an order granting a new license or exemption is issued, a Federal department or agency that has filed a takeover recommendation under § 16.14 may file a motion under § 385.2010 of this chapter to request a stay of the effective date of the license or exemption order.

(b)(1) If a Federal department or agency files a motion under paragraph (a) of this section, the Commission will stay the effective date of the order issuing the license or exemption for two years.

(2) The stay issued under paragraph (b)(1) may be terminated either:

(i) Upon motion of the department or agency that requested the stay, or

(ii) By action of Congress.

(c) The Commission will notify Congress if:

(1) It issues an order granting a stay under paragraph (b)(1);

(2) Any license or exemption order becomes effective by reason of the termination of a stay; or

(3) Any license or exemption order becomes effective by reason of the expiration of a stay.

(d) The Commission's order granting the license or exemption will automatically become effective:

(1) Thirty days after issuance, if no stay is granted, provided that no appeal or rehearing is filed;

(2) When the period of the stay expires; or

(3) When the stay is terminated under paragraph (b)(2) of this section.

§ 16.17 Procedures upon Congressional authorization of takeover.

If Congress authorizes the takeover of a hydroelectric power project as provided under section 14 of the Federal Power Act:

(a) The Commission or its designee will notify the existing licensee in writing of the authorization at least two years before the takeover occurs; and

(b) The licensee must present any claim for compensation to the Commission:

(1) Within six months of issuance of the notice of takeover, and

(2) As provided in section 14 of the Federal Power Act.

11. Section 16.18 is added as Subpart D, to read as follows:

Subpart D—Annual Licenses For Projects Subject to Sections 14 and 15 of the Federal Power Act

§ 16.18 Annual licenses for projects subject to sections 14 and 15 of the Federal Power Act.

(a) This section applies to projects with licenses subject to sections 14 and 15 of the Federal Power Act.

(b) The Commission will issue an annual license to an existing licensee upon expiration of its existing license to allow:

(1) The licensee to continue to operate the project while the Commission reviews any applications for a new license, a nonpower license, an exemption, or a surrender;

(2) The orderly removal of a project, if the United States does not take over a project and no new power or nonpower license or exemption will be issued; or

(3) The orderly transfer of a project to:

(i) The United States, if takeover is elected, or

(ii) A new licensee, if a new power or nonpower license is issued to that licensee.

(c) An annual license issued under this section will be renewed automatically, unless the Commission orders otherwise.

12. Sections 16.19 through 16.22 are added as Subpart E, to read as follows:

Subpart E—Projects With Minor and Minor Part Licenses

Sec.

Subpart E—Projects With Minor And Minor Part Licenses

§ 16.19 Procedures for an existing licenses of a minor hydroelectric power project or of a minor part of a hydroelectric power project with a license not subject to sections 14 and 15 of the Federal Power Act.

(a) *Applicability.* This section applies to an existing licensee of a minor hydroelectric power project or of a minor part of a hydroelectric power project that is not subject to sections 14 and 15 of the Federal Power Act.

(b) *Licensing proceeding.* An applicant for a license for a project with an expiring license not subject to sections 14 and 15 of the Federal Power Act must file its application under section 4(e) of the Federal Power Act.

(c) *Notification procedures.* (1) An existing licensee with a minor license or a license for a minor part of a hydroelectric project must file a notice of intent pursuant to § 16.6(b) of this part.

(2) If the license of an existing licensee expires on or after October 17, 1993, the licensee must notify the Commission as required under § 16.6(b) at least five years, but no more than five and one-half years, before the expiration of the existing license.

(3) If the license of an existing licensee expires on or after October 16, 1992, but before October 17, 1993, the licensee must notify the Commission as required under § 16.6(b) by October 16, 1988.

(4) If the license of an existing licensee expires on or before October 15, 1992, the licensee must notify the Commission as required under § 16.6(b) by August 5, 1988.

(5) The Commission will give notice of a licensee's intent to file or not to file an application for a new license in accordance with § 16.6(d).

(d) *Requirement to make information available.* A licensee must make the information described in § 16.7 available to the public for inspection and reproduction when it gives notice to the Commission under paragraph (c) of this section.

§ 16.20 Applications for relicense for a minor hydroelectric power project or for a minor part of a hydroelectric power project with a license not subject to sections 14 and 15 of the Federal Power Act.

(a) *Applicability.* This section applies to an application for relicense for a minor hydroelectric power project or for a minor part of a hydroelectric power project with a license that is not subject to sections 14 and 15 of the Federal Power Act.

(b) *Requirement to file.* (1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, an applicant must file an application for relicense at least 24 months, but no more than 30 months, before the expiration of the existing license.

(2) The requirement in paragraph (b)(1) of this section does ot apply if:

(i) An applicant filed an application for relicense more than 30 months before the license expired and before September 9, 1988, or

(ii)(The license is due to expire within three years of September 8, 1988.

(3) If an applicant files for relicense for a project whose license is due to expire within three years of September 8, 1988, it must file an application at least 12 months before the date on which the existing license expires.

(c) *Requirements for an processing of applications.* An application for relicense must meet the requirements of and will be processed in accordance with §§ 4.32, 4.35, 4.36, 4.37, 16.8, 16.9(c) and (d), and 16.10 and must be processed in accordance with §§ 4.41, 4.51, and 4.61, as appropriate.

(d) *Applicant notice.* An applicant that proposes to expand an existing project to encompass more land must notify by certified mail at the time it files an application for a new license:

(1) Any person who is an owner of record of an interest in property within the proposed project boundary, and

(2) Any Federal, state, municipal, or other local governmental agency that may be interested in or affected by the application.

§ 16.21 Operation of projects with a minor or minor part license after expiration of a license.

(a) A former licensee of a minor or minor part project that has filed an application for a new license may continue to operate the project after the minor or minor part license expires if the Commission has not acted on its application.

(b) If the former licensee has not filed an application for a new license, the Commission may issue an order allowing the former licensee with a minor or minor part license to continue to operate its project.

§ 16.22 Application for an exemption by a licensee with a license for a project not subject to sections 14 and 15 of the Federal Power Act upon expiration of the license.

(a) *Applicability.* This section applies to an existing licensee with a license for a project not subject to section 14 and 15 of the Federal Power Act.

(b) *Information requirements.* An applicant for an exemption must meet the requirements of § 16.12.

(c) *Standard of comparison.* If an application is filed in competition with an application for exemption by a licensee, the Commission will decide among competing applications in accordance with the standards of § 4.37(d)(2) of this chapter.

13. Section 16.23 and 16.24 are added as Subpart F, to read as follows:

Subpart F—Procedural Matters

Sec.

16.23 Prohibitions against filing an application for a new license.

16.24 Disposition of a project for which no timely application is filed.

Subpart F—Procedural Matters

§ 16.23 Prohibitions against filing an application for a new license.

(a) An existing licensee that informs the Commission that it does not intend to file an application for a new license, nonpower license, or exemption for a project, as required by § 16.6, may not file an application for a new license for the project.

(b) An existing licensee that fails to file an application for a new license, a nonpower license, or an exemption for a project at least 24 months before the expiration of the existing license for the project may not file an application for a new license for the project.

§ 16.24 Disposition of a project for which no timely application is filed.

(a) If an existing licensee that indicates in the notice filed pursuant to § 16.6 that it will file an application for a new license, a nonpower license, or an exemption, does not file its application at least 24 months before its existing license expires, and no other applicant files an application within that time or all pending applications filed before the new license application filing deadline are subsequently rejected or dismissed pursuant to § 4.32 of this chapter, the Commission will issue a public notice soliciting applications from potential applicants other than the existing licensee.

(b) A potential applicant that files a notice of intent within 90 days from the date of the public notice issued pursuant to paragraph (a):

(1) May apply for a license under section 4(e) of the Federal Power Act and Part 4 of this chapter within 18 months of the date on which it files its notice, and

(2) Must comply with the requirements of §§ 16.8 and 16.10 of this part.

(c) The existing licensee must file a schedule for the filing of a surrender application for the project, for the approval of the Director of the Office of Hydropower Licensing, three months:

(1) After the new license application filing deadline, if the existing licensee indicated in its notice of intent filed pursuant to § 16.6 that it would not file an application and no applications for a new license were filed;

(2) After the due date established for any notice of intent issued under paragraph (a) of this section, if no notices of intent were received; or

(3) After the due date for any application filed under paragraph (b)(1) of this section, if not application has been filed.

(d) Any application for surrender must be filed according to the approved schedule, must comply with the requirements of § 16.8 of this part, and must provide for disposition of any project work.

[FR Doc. 88-12905 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Parts 141, 260 and 357

[Docket No. RM88-18-000]

Statement of Cash Flows To Replace Statement of Changes in Financial Position in FERC Annual Report Forms

Issued June 6, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to replace the current "Statement of Changes in Financial Position" in its Annual Report Form Nos. 1, 1-F, 2, 2-A and 6 for electric utilities, natural gas companies and oil pipeline companies with a "Statement of Cash Flows." This action is in response to the Statement of Financial Accounting Standards No. 95 issued in November 1987 by the Financial Accounting Standards Board, the standards setting body for the accounting profession. The purpose of the proposed statement is to provide relevant detailed information about a company's cash receipts and cash payments, classified by operating, investing and financing activities. The Statement of Cash Flows is effective and must be implemented for fiscal periods ending after July 15, 1988.

The Commission notes that the proposed change in statements in the annual report forms will not require any change in the Commission's regulations in Parts 141, 260 and 357.

DATE: An original and 14 copies of the written comments must be received by the Commission by July 6, 1988.

ADDRESS: All filings should refer to Docket No. RM88-18-000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

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

SUPPLEMENTARY INFORMATION: This is a summary of a Notice of Proposed Rulemaking in Docket No. RM88-18-000 issued June 6, 1988. All persons interested in obtaining the full text of this document for inspection and copying may do so during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street NE., Washington, DC

20426. In addition, the Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357–8997. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

The Paperwork Reduction Act [1] and the Office of Mangement and Budget's (OMB) regulations [2] require that OMB approve certain information collection requirements imposed by agency rule. The provisions of this proposed rule have been submitted to OMB for its approval. Interested persons can obtain information on those provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. (Attention: Marian Obis, Office of Information and Resource Management (202) 357–8173). Comments on the information collection provisions of this proposed rule can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

List of Subjects

18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 260

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 357

Pipelines, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission proposes to amend the annual report forms referenced in Parts 141, 260 and 357 in Chapter I, Title 18 Code of Federal Regulations.

By the direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–13079 Filed 6–9–88; 8:45 am]

BILLING CODE 6717-01-M

[1] 44 U.S.C. 3501–3520 (1982).

[2] 5 CFR Part 1320 (1987).

DEPARTMENT OF STATE

Bureau of Personnel

22 CFR Part 20

[SD–216]

Retirement; Benefits for Certain Former Spouses

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to add regulations to 22 CFR to implement sections 831, 832, and 833 of the Foreign Service Act of 1980, as amended, which requires the Foreign Service Retirement and Disability System to provide benefits for certain former spouses. These proposed regulations specify what types of benefits will be offered and how the Department of State will administer them.

DATES: Comments must be received on or before June 30, 1988.

ADDRESS: Send comments to Director, Foreign Service Retirement Division, Department of State, Room 1251, Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Gertrude L. Wieckoski, (202) 647–9315.

SUPPLEMENTARY INFORMATION: These regulations are issued under authority of Chapter 8 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3901 *et seq.*). They apply to section 831, 832, and 833 of the Act as created by section 204 of Pub. L. 100–238 of January 8, 1988, (101 Stat. 1770–1773).

The regulations set forth conditions under which certain former spouses of current or former Foreign Service employees may receive retirement benefits, survivor benefits, and/or access to Federal group health insurance program.

Foreign spouses eligible for benefits are those who (1) were former spouses as of February 14, 1981, (2) were married for at least 10 years to an employee, and (3) were married for at least five years during which the employee was a participant in the Foreign Service retirement system. (Marriage to an employee during a period of service under a Foreign Service appointment which did not confer participation in the Foreign Service retirement system will not count towards meeting this last requirement.)

In addition, any former spouse who remarries or remarried before reaching the age 55 is disqualified from access to these benefits.

A qualifying former spouse may receive a retirement annuity between the time the employee retires and his or her death equal to one half of the employee's and his or her death equal to one half of the employee's annuity if their marriage lasted throughout the employee's government service. If the marriage did not span that entire period, the former spouse receives a pro rata share of one half of the amount received by the employee. The pro rata share in determined by the length of marriage over the years of creditable service used to determine the annuity. Surviving former spouses may receive 55% of the full annuity to which the employee was entitled.

The annuities paid to former spouses do not reduce the amount received by the employee or effect the survivor or potential survivor benefit to a current spouse. Annuities become payable as of December 22, 1987 or upon the retirement of the employee whichever is later, and will be adjusted for inflation under the same rules as apply for retired employees.

The regulations also set forth procedures under which former spouses may apply for benefits with the Department of State.

List of Subjects in 22 CFR Part 20

Retirement, Pensions, Foreign service.

For reasons set out in the preamble, it is proposed that 22 CFR Part 20 be added as follows:

PART 20—BENEFITS FOR CERTAIN FORMER SPOUSES

Sec.

Authority: 22 U.S.C. 3901 *et seq.*

§ 20.1 Definitions.

As used in this part, unless otherwise specified, the following have the meaning indicated:

"COLA" means cost-of-living adjustment in annuity.

"Creditable service" or "service" means employment or other periods that are counted under sections 816, 817, or 854 in determining retirement benefits.

"Disability annuitant" means a participant in FSRDS or FSPS entitled to a disability annuity under section 808 of the Act or subchapter V, Chapter 84, Title 5 U.S. Code, and a

"Disability annuity" means a Foreign Service annuity computed under those sections.

"FSRDS" means the Foreign Service Retirement and Disability System established by Subchapter I, Chapter 8, of the Act.

"FSPS" means the Foreign Service Pension System established by subchapter II, chapter 8, of the Act.

"Former spouse" means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during service of the participant which is creditable under chapter 8 of the Act with at least 5 years occurring while the participant was a member of the Foreign Service.

"Full annuity" equals the annuity the former participant would be eligible to receive except for deductions made to provide survivor benefits or because of payment of a portion of the annuity to others.

"Participant" means a person who contributes to the Fund identified in § 20.2. Such person may participate in either FSRDS or FSPS.

"Principal" means a participant or former participant whose service forms the basis for a benefit for a former spouse under this part.

"Pro rata share", in the case of a former spouse of a participant or former participant, means the percentage obtained by dividing the number of months during which the former spouse was married to the participant during the creditable service of the participant by the total number of months of such creditable service. In the total period, 130 days constitutes a month and any period of less than 30 days is not counted. When making this calculation for a former spouse married to a participant during a period the participant earned extra service credit under section 817 of the Act, the number of months of such extra service credit earned during that period of the marriage shall be added to the total number of months of the marriage.

§ 20.2 Funding.

Benefits under this part are paid from the Fund maintained by the Secretary of the Treasury pursuant to section 802 of the Act but are not authorized to be paid except to the extent provided therefor. Appropriations for such Fund are authorized by section 821(a) of the Act.

§ 20.3 Qualifications.

To be eligible for retirement or survivor benefits under this part, a former spouse must—

(a) Have been a former spouse on February 14, 1981;

(b) After becoming a former spouse, not have remarried before attaining age 55;

(c) In the case of any retirement benefit under § 20.5, elect this benefit instead of any survivor annuity for which the former spouse may simultaneously be eligible under this or another retirement system for Government employees; and

(d) Submit an application to the Department of State by June 22, 1990 in accordance with § 20.9 unless that date is extended as authorized by that section. The deadline for submission of an application for survivor benefits under § 20.5 will be deemed to have been met if the former spouse submits an application for retirement benefits within the deadline.

§ 20.4 Retirement benefits.

(a) *Type of benefits.* (1) A former spouse who meets the qualification requirements of § 20.3 is entitled to a share of any Foreign Service annuity (other than a disability annuity) or any supplemental annuity computed under section 806(a), 823 or 824 of the Act to which the principal is entitled under FSRDS and to any Foreign Service annuity (other than a disability annuity) or annuity supplement computed under sectin 824 or 825 of the Act of 5 U.S.C. 8415 to which the principal is entitled under FSPS.

(2) A former spouse of a disability annuitant is entitled to a share of benefits to which the annuitant would qualify under paragraph (a) he or she not been disabled based on the actual age and service of the annuitant.

(b) *Share.* The share of a participant's benefits to which a qualified former spouse is entitled is—

(1) 50 percent of the benefits described in § 20.4(a) if the former spouse was married to the participant throughout the latter's creditable service; or

(2) A pro rata share of 50 percent of such benefits if the former spouse was not married to the participant throughout such creditable service.

(c) *Reduction of benefits.* If retirement benefits of a principal are reduced because of reemployment, attainment of eligibility for Social Security benefits or for any other reason, the amount of the share payable to a former spouse is correspondingly reduced during the period of the reduction.

(d) *Commencement, termination and suspension.* (1) Entitlement to retirement benefits under this section (except for a former spouse of a disability annuitant) shall commence on the latter of—

(i) The day the principal becomes entitled to benefits described in § 20.4(a); or

(ii) December 22, 1987.

(2) Entitlement to retirement benefits under this section for a former spouse of a disability annuitant shall commence on the latter of—

(i) The date the principal would qualify for benefits (other than a disability annuity) described in § 20.4(a) the basis of the principal's actual age and service;

(ii) The date the disability annuity begins; or

(iii) December 22, 1987.

(3) Entitlement to retirement benefits under this section shall terminate or be suspended on the earlier of—

(i) Last day of the month before the former spouse dies or remarries before attaining age 55;

(ii) Date benefits of the principal terminate or are suspended because of death, recall, reemployment, recovery from disability or for any other reason.

(4) Entitlement to benefits under this section shall be resumed for a former spouse, following their suspension, on the date they are resumed for the principal.

§ 20.5 Survivor benefits.

(a) *Type of benefits.* A former spouse who meets the eligibility requirements of § 20.3 is entitled to survivor benefits equal to one of the following; whichever is applicable:

(1) 55 percent of the full annuity to which the principal was entitled on the commencement or recomputation date of the annuity in the case of a principal who dies while in receipt of a Foreign Service annuity computed under section 806, 808, 823, 824, or 855 of the Act of 5 U.S.C. 8415;

(2) 55 percent of the annuity to which the principal was entitled at death in the case of a principal who dies while in receipt of a Foreign Service annuity computed under 5 U.S.C. 8452;

(3) 55 percent of the full annuity to which the principal would have been entitled if he or she retired (or returned to retirement status) on the date of death computed—depending on the provision that would be used to compute an annuity for a surviving spouse of the principal—under section 806(a), 823, 824, or 855(b) of the Act of 5 U.S.C. 8415 and using the actual service of the principal, in the case of a principal who dies while in active service, including service on recall or reemployment while annuity is suspended or reduced; or,

(4) 55 percent of the full annuity computed under 5 U.S.C. 8413(b) that the principal could have elected to receive

commencing on the date of death or, if later, commencing on the date the principal would have attained the minimum retirement age described in 5 U.S.C. 8412(h), in the case of a principal while entitled to a deferred annuity under 5 U.S.C. 8413(b), but before commencement of that annuity. A survivor annuity under this paragraph may not commence before the date the principal would have attained the minimum retirement age.

(b) *Effect of Election of Alternate Form Annuity.* If a principal elects an alternate form annuity under section 829 of the Act or 5 U.S.C. 8420a, survivor benefits for a former spouse under this section shall, nevertheless, be based on what the principal's annuity would have been had the principal not withdrawn retirement contrbutions in a lump sum.

(c) *Reduction Because of Receipt of Other Survivor Benefits.* If a former spouse is in receipt of a survivor annuity based on an election by the principal under section 806(f) or 2109 of the Act, the survivor benefits for the former spouse under this section shall be reduced on the effective date by the amount of such elected survivor annuity.

(d) *Commencement and Termination.* Entitlement to survivor benefits under this section—

(1) Shall commence on the latter of—

(i) The date the principal dies;

(ii) December 22, 1987; and

(2) Shall terminate on the last day of the month before the former spouse dies or remarries before attaining age 55.

§ 20.6 COLA.

(a) *Retirement benefits.* A retirement annuity payable to a former spouse under § 20.4 is adjusted for cost-of-living increases under section 826 or 858 of the Act in the same manner as the annuity of the principal. The first such increase for a former spouse shall be prorated under the applicable section in the same way the first increase for the principal is adjusted, irrespective of whether the annuity to the former spouse commences on the same date as the annuity to the principal. If the benefit of a former spouse is based in part on an annuity supplement payable to a principal under 5 U.S.C. 8421 which is not adjusted by COLA, than that portion of the benefit payable to a former spouse is not adjusted by COLA.

(b) *Survivor benefits.* (1) Survivor annuities payable to a former spouse are adjusted for COLA under section 826 or 858 of the Act in the same manner as annuities are or would be adjusted for other survivors of the principal.

(2) A survivor annuity payable to a former spouse under section 20.51(a) shall be increased from its commencing date pursuant to paragraph (c)(2) of section 826 of the Act or 8462 of title 5, U.S. Code, by all COLA received by the principal at death, irrespective of the date of death and in instances where death occurred prior to December 22, 1987, by all COLA that would have been paid to a survivor annuitant from the date of death until December 22, 1987.

(3) The first increase to which a former spouse becomes entitled whose annuity is computed under § 20.5(a)(2) shall be pro-rated pursuant to 5 U.S.C. 8462(c)(4).

(3) The first increase to which a former spouse becomes entitled whose annuity is computed under § 20.5(a)(3) or (4) shall be pro-rated pursuant to paragraph (c)(1) of section 826 of the Act or 8462 of Title 5, U.S. Code.

§ 20.7 Waiver.

A former spouse entitled to an annuity under this part may decide to decline all or any part of the annuity for personal reasons. An annuity waiver shall be in writing and sent to the Retirement Division (PER/ER/RET), Department of State, Washington, DC 2050. A waiver may be revoked in writing at any time. Payment of the annuity waived prior to receipt by the Retirement Division of the revocation may not be made.

§ 20.8 Effect on other benefits.

Payment to a former spouse under this part shall not impair, reduce, or otherwise affect benefits paid under the Act to the principal or other persons.

§ 20.9 Application procedure.

(a) *Submission of Application.* To be eligible for retirement or survivor benefits under this part, a former spouse must submit a properly executed and completed application to the Department of State by June 22, 1990 or, if an exception is made for compelling cause to this deadline, within 60 days following the date of the letter from the Department transmitting the application to the former spouse. The application must be delivered or mailed to the Retirement Division (PER/ER/RET), Room 1251, Department of State, Washington, DC 20520.

(b) *Request for Application.* The Department of State has attempted to mail applications to all former spouses of whom it is aware that it believes may be eligible for benefits under this part. Any eligible former spouse who does not have an application at the time this part is published in the **Federal Register** must communicate with the Department as soon as possible and request an application. Request may be in person or by mail to the address in § 20.9(a) or by telephoning the Retirement Division on area code 202–647–9315. A request by letter must include the typed or printed full name and current address of the former spouse. It shall also give the dates of marriage and divorce or annulment that establish eligibility and fully identify the Foreign Service employee or former employee in question and state the agency of current or last employment.

(c) *Payment of Benefits Delayed.* Payment of benefits cannot be made to a former spouse until the application for benefits is approved by the Retirement Division of the Department. Upon such approval, benefits will be paid to an eligible former spouse retroactively, if necessary, back to the commencing date determined under this part.

George S. Vest,

Director General of the Foreign Service and Director of Personnel.

May 13, 1988.

[FR Doc. 88–13127 Filed 6–9–88; 8:45 am]

BILLING CODE 4710–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 173 and 174

[CGD 82–015]

RIN 2115–AA82

State Marine Casualty Reporting; Accident Report Thresholds

AGENCY: Coast Guard, DOT.

ACTION: Notice of extension of comment period.

SUMMARY: A notice of proposed rulemaking [53 FR 13417] published April 25, 1988, proposed raising the reporting requirement threshold to $400 in Parts 173 and 174 of Title 33, Code of Federal Regulations. Public comments were invited by June 24, 1988. The Coast Guard has decided to extend the comment period by 30 days to allow wider distribution of the notice through boating publications and provide more time for public comment.

DATE: Comments must be received on or before July 25, 1988.

ADDRESSES: Comments should be submitted to Commandant (G–LRA–2), [CGD 82–015], U.S. Coast Guard,

Washington, DC 20593–0001. Comments may be delivered to and will be available for examination and copying at the Marine Safety Council (G–LRA–2), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington DC 20593–0001, between 8 a.m. and 3 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Carlton Perry, Office of Navigation Safety and Waterway Services (202) 267–0979.

SUPPLEMENTARY INFORMATION: Interested persons are invited to submit written views, data or arguments on these proposed rules. Persons submitting comments should include their names and addresses, identify this Notice (CGD 82–015) and give the reasons for the comment. Persons desiring acknowledgement that their comments have been received should include a stamped, self-addressed postcard or envelope. All comments received by the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing has been scheduled, but one may be held at a time and place to be set in a later notice in the **Federal Register**, if requested by persons raising a genuine issue and it is determined that the rulemaking will benefit from oral presentations.

The notice of proposed rulemaking published on April 25, 1988, provided that public comments should be received by June 24, 1988. The proposed rulemaking would raise the threshold for reporting vessel accidents, involving only property damage, to $400 from the current $200. The rulemaking uses an indexing formula based on the Gross National Product (GNP) deflator figures. This indexing formula would be applied to the reporting threshold annually to determine when it needed to be raised. The NPRM also asked questions about raising the threshold to a level higher than $400; using types of damage instead of dollar amounts; uses made of property damage statistics; impacts of receiving less information/data if the reporting threshold is raised above $400; and what measures could be taken to improve boater compliance with accident reporting requirements.

Dated: June 3, 1988.

Martin H. Daniell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 88–13028 Filed 6–9–88; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 426

Acreage Limitation Rules and Regulations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed rules revise the existing rules for administration of the Reclamation Reform Act of 1982 (RRA). The rules are being revised to incorporate several amendments to the RRA that are contained in the Omnibus Budget Reconciliation Act of 1987 (1987 Budget Act), which was enacted on December 22, 1987. The amendments address audits for compliance with Reclamation law, water rates for land held under extended recordable contracts, underpayments for irrigation water deliveries to landholdings, and treatment of revocable trusts.

DATES: Written comments on the proposed rules must be submitted on or before July 11, 1988. The Bureau will also conduct public hearings on June 20, 22, and 24, 1988, to receive oral testimony on the proposed rules. Details about the hearings, such as dates, times, locations, can be found below in the section entitled "Supplementary Information." Written comments and testimonies received at the hearings will be considered when the final version of the proposed rules are being prepared.

ADDRESSES: Written comments on the proposed rules must be submitted to Terry Lynott, Assistant Commissioner-Resources Management; Bureau of Reclamation; Denver Office, Code D–115; P.O. Box 25007; Denver, CO 80225.

FOR FURTHER INFORMATION CONTACT: James R. Handlon; telephone (202) 343–5204.

SUPPLEMENTARY INFORMATION:

Background

The RRA, title II, Pub. L. 97–293 (96 Stat. 1263), was signed into law by President Reagan on October 12, 1982. The Act modernized Reclamation law. Final rules and regulations implementing the RRA were published in the **Federal Register** on December 6, 1983. Those rules were revised on April 13, 1987, primarily to add provisions for implementing section 203(b) of the Act. That section mandated that after April 12, 1987, parties remaining subject to prior law must pay the full-cost rate for irrigation water delivered to land leased in a landholding in excess of 160 acres. On October 26, 1987, the rules were again revised. The purpose of this revision was to eliminate "gifted land" as a type of land transaction subject to the involuntary acquisition provisions of the rules.

Proposed Revisions

The Bureau is now proposing to revise the rules to incorporate provisions implementing the new RRA amendments contained in the 1987 Budget Act.

Audits—The first amendment, section 224(g) mandates the Secretary of the Interior to conduct a thorough audit of compliance with Reclamation law by individuals and legal entities. The amendment requires the Secretary, at a minimum, to complete audits of landholdings and operations exceeding 960 acres within 3 years. During each of these 3 years, the Secretary is also required to submit a report to Congress summarizing audit findings and actions that have been taken to correct instances of noncompliance.

The Bureau has initiated its audit efforts. However, since this amendment places no new requirements on landholders themselves, the Bureau proposes not to add any additional audit language to the rules. The existing provision, § 426.10(i), addresses audits and provides landholders with sufficient information regarding this topic. However, in order to ensure that the Secretary has the information necessary to perform the required audits, the Bureau proposes to revise the language in § 426.10(a) to clarify that districts, prior law and new law recipients, and persons operating irrigation land under management arrangements or consulting agreements must provide information and records upon request by the Secretary.

Extended recordable contracts—The second amendment, section 224(h), clarifies that the provisions of section 205(c) of the RRA are applicable to all recordable contracts entered into prior to October 12, 1982. Basically, section 205(c) requires that the full-cost rate must be paid for water deliveries to land held under an extended recordable contract. Prior to the amendment, this provision applied only to landholders subject to the discretionary provisions (sections 203 through 208) of the RRA. Prior law recipients were permitted to receive irrigation water at the contract rate for the entire length of the extended recordable contract.

These rules propose to revise § 426.11(i)(4) of the rules so that both prior law recipients and recipients subject to the discretionary provisions are required to pay the full-cost rate for

land under extended recordable contract. In accordance with the 1987 amendment, the rules provide that the full-cost rate for prior law recipients became effective on December 23, 1987, and is not retroactive to water delivered prior to that date.

Currently, the rules provide that the interest rate in determining the appropriate full-cost water rate for deliveries to land under an extended recordable contract is in section 202(3) of the RRA and in § 426.7(f)(1) of the current rules. The Department of the Interior (Department) has determined that this interest rate would also apply to prior law recipients who come under the provisions of section 205(c) by virtue of section 224(h). Therefore, the Bureau proposes to revise § 426.7(f) of the rules to reflect the fact that the full-cost interest rates applying to a prior law recipient with leased land is different from the interest rate applying to land held by a prior law recipient under extended recordable contract.

Underpayments—We propose to add a new section to the rules to incorporate the third RRA amendment, section 224(i). This amendment provides that when the Secretary finds that any individual or legal entity has not paid the required amount for irrigation water delivered to a landholding, he shall collect the amount of any underpayment with interest accruing from the day the required payment was due until paid. This requirement of law is reflected in § 426.23 of the proposed rules. The "Severability" provision, which is designated as section 426.23 in the existing rules, has been redesignated as section 426.24 in the proposed rule.

Revocable trusts—The last of the RRA amendments revises the trust section of the RRA, section 214, by adding a subsection providing that land in a revocable trust will be attributed to the grantor if (1) the trust is revocable at the discretion of the grantor or the trust revokes or terminates by its terms once a specific time period has expired and (2) revocation or termination results in title to the land reverting either directly or indirectly to the grantor. The Bureau proposes to revise §§ 426.6(b)(4) and (d)(6) of the current rules to incorporate this amendment.

Executive Order 12291

The Department of the Interior has determined that the proposed rules do not constitute a major rule under Executive Order 12291; therefore, a Regulatory Impact Analysis is not required and has not been prepared.

National Environmental Policy Act

A draft FONSI (finding of no significant impact) and a draft supplement to the April 1987 environmental assessment, which address the environmental impacts of the proposed rules, have been prepared and are available for public review. Copies of these documents may be obtained upon request from the Bureau offices located in Boise, Idaho; Sacramento, California; Boulder City, Nevada; Salt Lake City, Utah; Billings, Montana; and Washington, DC. Comments on the FONSI and the supplement to the 1987 environmental assessment may be incorporated with comments on the proposed rules.

Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget as is required by 44 U.S.C. 3501 et seq. and assigned clearance numbers 1006–0005 and 1006–0006.

Small Entity Flexibility Analysis

The proposed rules will not have a significant economic effect on a substantial number of small entities. Only a small number of landholders farming land irrigated by Reclamation projects westwide will be affected by any provision of section 5302 of the 1987 Budget Act. Two of these provisions, the audit and underpayment provisions, are expected to result in little or no economic effect on landholders. The other two provisions, which address revocable trusts and extended recordable contracts, may impact a small number of landholders. However, such landholders will be able to mitigate the potential impacts by altering their trust agreements or, in the case of extended recordable contracts, by becoming subject to the discretionary provisions or selling the recordable contract land before the extended contract period actually matures.

Hearings

Three public hearings will be held to receive oral testimony on the proposed rules. All hearings will begin at 10 a.m. and will continue until all testimony has been heard. Oral statements will be limited to 10 minutes. Speakers will not be permitted to trade their time to obtain a longer oral presentation; however, the hearings officer may allow any person additional time after all other comments have been heard. Any scheduled speaker not present when called will lose his or her privilege in the scheduled order, but will be recalled after all the scheduled speakers have been heard. Speaker requests will be scheduled up to 2 working days preceding the hearings and any subsequent requests will be handled on a first-come-first-served basis following the scheduled presentations.

Hearings will be held on the dates and at the locations shown below. Individuals or organizations wishing to speak at the hearings should contact the office listed after each hearing location:

San Francisco Hearing

Date: June 20, 1988
Location: San Francisco, California, Sheraton Inn, 1177 Airport Boulevard, Burlingame, California
Contact: Regional Director, Mid-Pacific Region, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, Telephone: (916) 978–5033

Denver Hearing

Date: June 22, 1988
Location: Stouffer Concourse Hotel, 3801 Quebec Street, Ballroom C, Denver, Colorado
Contact: Bureau of Reclamation, Denver Office, Division of Water and Land Technical Services, Attention: Code D–400, Box 25007, Denver, Colorado 80225, Telephone: (303) 236–8065

Washington, DC Hearing

Date: June 24, 1988
Location: Department of the Interior, Main Interior Building, Room 7000B, 18th and C Streets NW., Washington, DC
Contact: Commissioner, Bureau of Reclamation, Attention: Code 400, 18th and C Streets NW., Washington, DC 20240, Telephone: (202) 343–5204 or 5104

List of Subjects in 43 CFR Part 426

Irrigation, Reclamation, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, it is proposed to amend Title 43, Chapter I, of the Code of Federal Regulations by amending Part 426 to read as set forth below.

Dated: May 26, 1988.

C. Dale Duvall,

Commissioner, Bureau of Reclamation.

PART 426—RULES AND REGULATIONS FOR PROJECTS GOVERNED BY FEDERAL RECLAMATION LAW

1. The authority citation for Part 426 is revised to read as follows:

Authority: Administrative Procedure Act, 60 Stat. 237, 5 U.S.C. 552; the Reclamation Reform Act of 1982, Pub. L. 97–293, title II, 96

Stat. 1263, as amended by the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203; and the Reclamation Act of 1902, as amended and supplemented 32 Stat. 388, (43 U.S.C. 371 et seq.).

2. Section 426.6 is amended by revising paragraphs (b)(4) and (d)(6) to read as follows:

§ 426.6 Ownership entitlement.

* * * * *

(b) * * *

(4) Trusts.

(i) An individual or corporate trustee holding land in a fiduciary capacity is not subject to the ownership or pricing limitations imposed by title II nor the ownership provisions of prior law for land held in this capacity; provided, the trust agreement: is in writing and is approved by the Secretary, identifies the beneficiaries, describes the interests of the beneficiaries and in the case of revocable trusts, the trust agreement also identifies the grantor(s) of all lands held in the trust, identifies the person(s) or entity (entities) who may revoke the trust and to whom title to the lands held in the trust will be conveyed upon the revocation of the trust. The Secretary shall be notified of any changes in the above conditions.

(ii) In the case of irrevocable trusts and revocable trusts other than those described in (b)(4)(iii) of this section, the lands held in the trust will be attributed to the beneficiary or beneficiaries of the trust according to the interest held in the trust by each beneficiary. The eligible acreage attributable to to each beneficiary in trust land in combination with other land directly or indirectly owned by such beneficiary shall not exceed that beneficiary's ownership entitlement unless the land is either under recordable contract or was acquired and is eligible under the involuntary acquisition process provided in § 426.16.

(iii) In the case of revocable trusts which may be revoked at the discretion of the grantor(s) of the lands held in the trust and such revocation results in title to the trust lands reverting to the grantor(s) either directly or indirectly, or if the terms of the trust require that it be revoked or terminated upon the expiration of a specified period of time and such revocation or termination results in the title to the lands held in the trust reverting either directly or indirectly to the grantor(s), the lands held in that trust will be attributed to the grantor(s) of the lands. Therefore, in the case of such revocable trusts, the eligible acreage attributable to each grantor in trust land in combination with other land directly or indirectly owned by such grantor shall not exceed that grantor's ownership entitlement unless the land is either under recordable contract or was acquired and is eligible under the involuntary acquisition process provided in § 426.16. However, a revocable trust in which a grantor retains the power to change the beneficiaries or to modify the terms of the trust, but does not provide that the title to trust property will revert to the grantor upon revocation or termination shall not result in an attribution to the grantor of the trust property.

(iv) If the attribution of trust property described in (b)(4)(iii) of the section results in the grantor of such property becoming subject to the payment of full cost for irrigation water delivered to lands within his landholding, such full cost will not apply to the grantor if the trust agreement was revised before April 20, 1988, to avoid or preclude the attribution of the trust property to the grantor. If such a trust agreement was not so revised by that date, the grantor must pay full cost for irrigation water delivered to that portion of the grantor's landholding that exceeds the non-full-cost entitlement, commencing December 23, 1987, until such trust agreement is so revised.

(A) The application of this rule may be illustrated by the following:

Example (1). Bank X is the trustee for five irrevocable trusts, each of which has more than one beneficiary. The irrevocable trusts contain 1,280, 960, 640, 800, and 400 acres, respectively. The land in the irrevocable trusts is in districts which have amended their contracts to conform to the discretionary provisions of title II. Since the ownership and pricing limitations of title II do not apply to Bank X as trustee for the trusts and all beneficiaries who are qualified recipients are within their respective ownership entitlements, all 4,080 acres in the five irrevocable trusts are eligible to receive irrigation water at the contract rate. However, if a beneficiary owned directly or indirectly other irrigation land which, when combined with his beneficial interest in the subject irrevocable trusts, caused him to exceed the 960-acre ownership limitation, either that beneficiary or the trustee would be required to designate the nonexcess land for which irrigation water could be supplied, depending upon whether the land to be so designated is directly held by the beneficiary or the trust.

Example (2). Farmer X, a qualified recipient, provides in his will for the establishment of a trust and the conveyance of 640 acres of his land receiving irrigation water into that trust for his minor child upon his death. Farmer X designates his brother as trustee of that testamentary (irrevocable) trust. The land is located in a district which has amended its cotract to come under the discretionary provisions of title II. The brother, who is designated as trustee for the trust, owns 800 acres in the same district which receives an irrigation water supply. Farmer X dies, and the testamentary trust he has established is activated. The brother, as trustee, is entitled to receive irrigation water for the land in trust as well a the land he owns.

Note. The land placed in the testamentary trust by Farmer X is counted against his ownership entitlement during his lifetime as long as the land remained in his ownership.

Example (3). Farmer X, a qualified recipient, owns 960 acres eligible to receive irrigation water in a district subject to the provisions of title II. He decides to place 160 acres of his land in an irrevocable trust with his daughter as the life tenant. The 160 acres of trust land shall be attributed to the daughter's entitlement if she is independent. If she is dependent, the 160 acres of trust land shall be attributed to Farmer X or to the person upon whom she is dependent.

Example (4). ABC Corporation, a prior law recipient, establishes a revocable trust and places 160 acres of land receiving irrigation water in the trust for the benefit of J. Jones. Under the terms of the revocable trust, the trust will terminate and title to the 160 acres will revert back to ABC Corporation in 10 years. All 160 acres of the land in trust is attributed to the corporation with all stockholders attributed an indirect interest in proportion to their percent of stock held in the Corporation.

Example (5). As in Example (4) above, ABC Corporation establishes a trust for the benefit of J. Jones, which is revocable at the discretion of ABC Corporation, the trustor. But Corporation X, a fully independent legal entity, rather than Corporation ABC, contributes the 160 acres to the trust. In this example, the 160 acres is attributed to the beneficiary of the trust, J. Jones, since the criteria for attribution to the grantor (Corporation X) have not been met; namely, the 160 acres will revert in 10 years to the trustor (Corporation ABC), not the grantor, and the grantor does not have the power to revoke the trust.

Example (6). Farmer X, a qualified recipient, places 960 acres of land receiving irrigation water in a trust for his son. The trust agreement provides that the trust shall expire in 20 years, and ownership of the trust land shall be vested in Corporation Y, of which Farmer X is a part owner with 5 percent interest. Because title to 5 percent of the trust land will revert indirectly to Farmer X upon termination of the trust, 48 acres (960 × 5 percent) of the trust land is attributed to Farmer X. The remaining 912 acres of trust land is attributable to the beneficiaries of the trust. If Farmer X's interest in Corporation Y changes during the term of the trust, the amount of trust land attributed to Farmer X will change accordingly.

* * * * *

(d) * * *

(6) See § 426.6(b)(4).

* * * * *

3. Section 426.7 is amended by revising paragraph (f) to read as follows:

§ 426.7 Leasing and full-cost pricing.

* * * * *

(f) Interest rate calculations for full cost. In determining full cost, the interest rates to be used will be determined by the Secretary of the Treasury as follows:

(1) Interest rates applicable to (i) qualified recipients, (ii) limited recipients receiving water on or before October 1, 1981, and (iii) extented recordable contract land owned by prior law recipients after December 22, 1987.

(A) The interest rates for expenditures made on or before October 12, 1982, shall be the greater of 7½ percent per annum or the weighted average yield of all interest-bearing marketable issues sold by the Treasury during the fiscal year in which the expenditures were made by the United States.

(B) The interest rate for expenditures made after October 12, 1982, shall be the arithmetic average of (*1*) the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for 15 years from the date of issuance at the beginning of the fiscal year in which the expenditures are made and (*2*) the weighted average yield on all interest-bearing marketable issues sold by the Treasury during the fiscal year preceding the fiscal year in which the expenditures are made.

(2) Interest rates applicable to (i) limited recipients not receiving irrigation water on or before October 1, 1981, and (ii) prior law recipients, except for land owned under extended recordable contract after December 22, 1987. The interest rate shall be determined as of the fiscal year preceding the fiscal year in which expenditures are made except that the interest rate for expenditures made before October 12, 1982, shall be determined as of October 12, 1982. The interest rate shall be based on the arithmetic average of (A) the computer average interest payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for 15 years from the date of issuance and (B) the weighted average yield on all interest-bearing marketable issues sold by the Treasury.

Note to Paragraph (f)(2): Prior law recipients who become subject to the discretionary provisions after April 12, 1987, will then become eligible for the full-cost interest rate specified in paragraph (f)(1) of this section, unless they are limited recipients that did not receive irrigation water on or before October 1, 1981.

4. Section 426.10 is amended by revising paragraph (a) to read as follows:

§ 426.10 Information requirements.

(a) *In general.* Districts, qualified recipients, limited recipients, prior law recipients and natural persons or legal entities operating irrigation land under an agreement described in § 426.7(a)(1) shall provide the Secretary upon request in a form suitale to the Secretary such records and information as the Secretary may deem reasonably necessary to implement Pub.L. 97–293 and Federal Reclamation law.

* * * * *

5. Section 426.11 is amended by revising paragraph (i)(4) to read as follows:

§ 426.11 Excess land.

* * * * *

(i) * * *

(4) Water rates for land under extended recordable contracts. Land under recordable contract may continue to receive irrigation water deliveries at the non-full-cost rate for the original disposition period of the recordable contract. The rate for irrigation water deliveries to land under recordable contract during the extended contract period shall be determined as follows: (i) For land under recordable contract held by qualified and limited recipients, the non-full-cost rate shall apply until the date 18 months after the date the Secretary resumes the processing of excess land sales, or until the extended contract period expires, whichever occurs first, and after the date 18 months from the date the Secretary resumes the processing of excess lands sales, water deliveries shall be made at the full-cost rate through the effective termination date of the extended recordable contract, (ii) for land under extended recordable contract held by prior law recipients, water deliveries shall be made at the full-cost rate described in § 426.7(f)(1) commencing December 23, 1987, through the effective termination date of the extended recordable contract.

(A) The principles of this rule may be illustrated by the following:

Example (1). Landowner X entered into a recordable contract on June 27, 1972. The recordable contract provided for a 10-year disposition period which ended on June 27, 1982. However, Landowner X was prevented from selling the land by the Secretarial moratorium of June 27, 1977. The district in which the land is located amended its contract to conform to the discretionary provisions on January 1, 1983. Since Landowner X had 5 years remaining on the original recordable contract when the moratorium was imposed, the contract will be extended for 5 years from the date the processing of the sale is resumed. The resumption date will be determined by the Secretary. Landowner X must pay the full-cost rate, however, for any irrigation water delivered to the land under extended recordable contract beginning 18 months from the date the moratorium is lifted.

Example (2). Landowner Y entered into a recordable contract with a 10-year disposition period on June 27, 1976. Landowner Y was prevented from selling the land by the Secretarial moratorium of June 27, 1977. At that time, 9 years remained in the disposition period of the recordable contract. The district in which the land is located amended its contract to conform with the discretionary provisions of title II on January 1, 1983. The Secretary resumes the processing of the excess land sale on May 21, 1984. The original disposition period of the recordable contract expires on June 27, 1986, which is more than 18 months after the Secretary resumed the processing of the excess land sale. Therefore, Landowner Y must pay the full-cost rate for water deliveries to that land beginning June 27, 1986, for the duration of the extended contract period. The extended contract period will expire on May 21, 1993, 9 years after the Secretary resumed the processing of the excess land sale.

Example (3). Landholder Z entered into a recordable contract on June 27, 1974. The recordable contract provided for a 10-year disposition period that ended on June 27, 1984. However, Landowner Z was prevented from selling the land by the Secretarial moratorium of June 27, 1977. The Secretary resumed the processing of excess land sales on May 21, 1984. Landholder Z had 7 years remaining on his recordable contract when the moratorium was imposed; therefore, the contract will be extended for 7 years from May 21, 1984, or until May 21, 1991. Landholder Z's land is located in a district that remains subject to prior law, and Landholder Z has not made an irrevocable election to become subject to the discretionary provisions. Since Landholder Z is a prior law recipient and the land was under extended recordable contract prior to December 23, 1987, water deliveries to this land prior to December 23, 1987, were properly made at the contract rate. However, for all water deliveries taking place on or after December 23, 1987, Landholder Z must pay the full-cost rate, as described in § 426.7(f)(1), through the effective termination date of the extended recordable contract.

* * * * *

6. Section 426.23 is redesignated as § 426.24, and new 426.23 is added to read as follows:

§ 426.23 Interest on underpayments.

When the Bureau finds that any individual or legal entity subject to Federal Reclamation law has not paid the required amount for irrigation water delivered to a landholding pursuant to Reclamation law, the Bureau will collect the amount of any underpayment with interest accruing from the date the required payment was due until paid. The due date is the date the required payment should have been paid by the district to the United States for water

delivered to a landholding. The interest rate shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest-bearing marketable issues sold by the Treasury during the period of underpayment.

[FR Doc. 88-13206 Filed 6-9-88; 8:45 am]
BILLING CODE 4310-09-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MM Docket No. 86-112; FCC 88-126]

FM Broadcast Translator Stations and FM Booster Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this *Further Notice of Proposed Rulemaking (Further Notice)*, the Commission proposes to amend the rules to extend the recent action permitting noncommercial educational translators that are assigned to reserved frequencies (channels 200–220), and owned and operated by the primary station licensee, to use alternative signal delivery technologies to rebroadcast the signal of their primary FM station to all noncommercial educational FM translators operating on reserved channels. The rule change proposed herein will facilitate the delivery of noncommercial educational FM programming to remote and currently underserved areas by enabling parties that are not primary station licensees, such as community and other local groups, to obtain programming for translators they would operate. In addition, the Commission requests comment on whether authorization of broadcast auxiliary intercity relay microwave facilities to deliver signals to noncommercial educational translators should be on a secondary basis so as to minimize the impact on the availability of these facilities for use with full-service FM stations.

DATES: Comments must be submitted on or before July 11, 1988, and reply comments on or before August 10, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tatsu Kondo, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Further Notice of Proposed Rule Making (Further Notice)* in MM Docket No. 86-112, FCC 88-125, adopted March 24, 1988, and released April 15, 1988. The full text of this Commission decision, including the proposed amendments to the rules, is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, Northwest, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of the Further Notice of Proposed Rule Making

1. In the *Report and Order* in MM Docket No. 86-112, FCC 88-125, adopted March 24, 1988, and released April 15, 1988, the Commission amended its rules to authorize noncommercial educational FM translators that are assigned to reserved frequencies (channels 200-220), and that are owned and operated by the primary station, to rebroadcast signals that are relayed from the primary station by satellite, microwave, or any technical means deemed suitable by the licensee. Previously, the Commission's rules limited all FM translators to rebroadcast of signals received over-the-air from the primary station or another translator. This rule change did not alter the secondary status of noncommercial translators, nor the requirement that in any conflict that arises with a full service station, the translator operator is obligated to resolve the conflict or cease operation of the translator.

1. In the *Further Notice of Proposed Rule Making (Further Notice)* in MM Docket 86-112, FCC 88-126, adopted March 24, 1988, and released April 15, 1988, the Commission is proposing to amend its rules to permit all noncommercial educational FM translators assigned to reserved frequencies (channels 200-220), and owned and/or operated by parties other than the primary station, to use alternative delivery technologies to relay the signals of their FM stations. The Commission believes that extension of the authority to use alternative signal delivery technologies to all noncommercial translators, whether owned by the primary station licensee or by third parties, may be more effective in extending noncommercial educational FM programming to remote areas than the more limited rule change adopted in the *Report and Order*. Accordingly, the Commission proposes to amend § 74.1231 of its rules to provide that all noncommercial translators assigned to reserved channels, and owned and/or operated by third parties, may receive signals for rebroadcast via any technical means, including microwave and satellite, the licensee of the translator deems suitable. It seeks comment on all aspects of the proposed rule change as set forth at the end of this summary.

2. In order to realize the full benefits of this proposal and the rule change adopted in the *Report and Order*, the Commission also intends to authorize the use of broadcast auxiliary intercity relay microwave facilities to deliver signals to noncommercial translators. In the *Notice of Proposed Rule Making* in this proceeding, 51 FR 15026 (April 23, 1986), the Commission proposed to authorize such facilities to serve noncommercial educational translators on a parity basis with those that serve full-service stations. However, the Commission recognizes that the broadcast auxiliary frequencies are congested in many areas, particularly in the larger markets, and that the rule changes it is making in this proceeding likely will increase the demand for these frequencies. It therefore seeks comment on whether authorization of broadcast auxiliary stations that carry programming to noncommercial translators should be made on a secondary basis, to minimize the impact on the availability of broadcast auxiliary channels, or whether, with respect to these facilities, translators should enjoy parity with full-service FM stations. A secondary authorization would permit the use of broadcast auxiliary channels to deliver signals to noncommercial translators only where such use would not interfere with the use of those channels by full-service stations.

3. This is a non-restricted notice and comment rule making proceeding. *See* § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

4. *Initial Regulatory Flexibility Analysis:* Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, this proceeding will authorize the use of alternative signal delivery technologies to rebroadcast the signal of noncommercial educational FM stations to all noncommercial translators assigned to reserved channels, even those owned and/or operated by parties other than the primary station. The effects of this proposed rule change on small entities, such as local organizations, intending to use alternative signal delivery technologies for their owned and/or operated noncommercial expected to be beneficial. Public comment is requested on the initial regulatory flexibility

analysis set out in full in the Commission's complete decision.

5. The proposed rule change contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure or record retention requirements; and will not increase or decrease burden hours imposed on the public.

6. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before July 11, 1988, and reply comments on or before August 10, 1988. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

List of Subjects in 47 CFR Part 74

Radio broadcasting.

Part 74 of Title of the Code of Federal Regulations is proposed to be amended to read as follows.

PART 74—[AMENDED]

1. The authority citation for Part 74 would continue to read as follows:

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

2. 47 CFR 74.501 is proposed to be amended by revising paragraph (b) to read as follows:

§ 74.501 Classes of aural broadcast auxiliary stations.

* * * * *

(b) *Aural broadcast intercity relay station.* A fixed station for the transmission of aural program material between radio broadcast stations, other than international broadcast stations, between FM radio broadcast stations and their co-owned FM booster stations, between noncommercial educational FM radio stations assigned to reserved channels (Channels 200–220), or other purposes as authorized in § 74.531.

* * * * *

3. 47 CFR 74.531 is proposed to be amended by redesignating paragraphs (c) through (g) as (d) through (h) and adding new paragraph (c) to read as follows:

§ 74.531 Permissible service.

* * * * *

(c) An aural broadcast intercity relay station is authorized to transmit aural program material between a noncommercial educational FM station and a noncommercial educational FM translator station assigned to a noncommercial educational reserved channel (Channels 200–220). This use shall not interfere with or otherwise preclude use of these broadcast auxiliary stations transmitting aural programming between the studio and transmitter location of a broadcast station or between broadcast stations as provided in paragaphs (a) and (b) of this section.

* * * * *

4. 47 CFR 74.532 is proposed to be amended by revising paragraph (a) to read as follows:

§ 74.532 Licensing requirements.

(a) An aural broadcast STL or intercity relay station will be licensed only to the licensee or licensees of broadcast stations other than international broadcast stations, and for use with broadcast stations, noncommercial educational FM translator stations assigned to reserved channels or FM booster stations owned entirely by or under common control of the licensee of the primary station.

* * * * *

5. 47 CFR 74.1231 is proposed to be amended by revising paragraph (b) to read as follows:

§ 74.1231 Purpose and permissible service.

* * * * *

(b) Except as set forth in paragraphs (f) and (g) of this section, an FM translator may be used only for the purpose of retransmitting the signals of a primary FM broadcast station or another translator station which have been received directly through space, converted, and suitably amplified. However, a noncommercial educational FM translator station operating on a reserved channel (Channels 200–220) may use alternative signal delivery means, including, but not limited to, satellite and microwave facilities.

* * * * *

Federal Communications Commission.

H. Feaster Walker, III,

Acting Secretary.

[FR Doc. 88–13053 Filed 6–9–88; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Part 215

Department of Defense Federal Acquisition Regulation Supplement; Contracting by Negotiation

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for public comments.

SUMMARY: The Defense Acquisition Regulatory Council is considering an addition to DoD FAR Supplement at 215.406–2 to permit the Contracting Officer the flexibility to establish Contract Line Item Numbers (CLIN's), SUBCLIN's or Exhibit Line Item Numbers (ELIN's) for an equipment's recurring costs and separate CLIN's, SUBCLIN's or ELIN's for the same item's nonrecurring costs. The purpose of this separation is to obtain price history data which reflects only recurring costs; these data can then be used in a price analysis.

DATE: Comments must be received by the DAR Council at the address shown below on or before July 11, 1988, to be considered in developing a final rule.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD (P&L) MRS), Room 3D139, The Pentagon, Washington, DC 20301–3062. Please cite DAR Case 87–102 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

Historical price data files are used to conduct price comparisons to determine fair and reasonable prices for follow-on acquisitions of support equipment items. These files have been unreliable because unit prices in the files reflect a combined total of recurring production costs and nonrecurring design and development costs. If recurring and nonrecurring costs for items cannot be identified in the price history files, accurate price comparisons cannot be performed causing it to be difficult for the contracting officer to determine fair and reasonable prices for similar items required in the future.

B. Regulatory Flexibility Act Information

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because Contractors already develop this data in the formulation of their proposals. An Initial Regulatory Flexibility Analysis has therefore not been performed. Comments are invited from small businesses and other concerned 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 Information

The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Part 215

Government procurement.

Owen Green,

Acting Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed to amend 48 CFR Part 215 as follows:

PART 215—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR Part 215 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

2. Section 215.406-2 is amended by adding paragraph (b) to read as follows:

215.406-2 Part I—The Schedule.

* * * * *

(b) *Section B, Supplies or Services and Prices/Costs.*

(S-70) Contract price history files can be distorted by the allocation of nonrecurring costs to the recurring costs of an item. These distortions can make future comparisons between item prices unreliable and of limited use. Accordingly, the contracting officer may require that the recurring and nonrecurring costs for deliveries be segregated in the solicitation and resultant contract, by using the procedures at 204.7104.

[FR Doc. 88-13064 Filed 6-9-88; 8:45 a.m.]

BILLING CODE 3810-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600, 601, 604 and 605

[Docket No. 80225-8025]

Style Guide, Regional Fishery Management Councils, Other Applicable Law, Guidelines for Council Operations and Administration

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to revise regulations and guidelines concerning the operation of Regional Fishery Management Councils (Councils) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). This action implements parts of Title I of Pub. L. 99-659, which amends the Magnuson Act; clarifies instructions of the Secretary of Commerce on other statutory and regulatory requirements affecting the Councils; and adjusts the fishery management planning and development procedures in line with recommendations of two fishery management studies commissioned by NOAA in 1986. This action includes the uniform standards for the operation of the Councils required by the Magnuson Act.

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

ADDRESS: Send comments on this proposed rulemaking to: Richard H. Schaefer, Office of Fisheries Conservation and Management, National Marine Fisheries Service, 1825 Connecticut Ave., NW., Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Richard H. Schaefer, telephone (202) 673-5263.

SUPPLEMENTARY INFORMATION: Section 302(f)(6) of the Magnuson Act requires each Council to determine its organization, and prescribe its practices and procedures for carrying out its functions under the Act in accordance with such uniform standards as are prescribed by the Secretary of Commerce. This action repromulgates the Secretary's uniform standards governing the operations of the Councils. It includes: (1) Implementation of parts of Title I of Pub. L. 99-659; (2) supplementary instruction on requirements affecting the Councils under other applicable law; (3) guidelines for the fishery management process; and (4) guidelines for (a) Council Statements of Organization, Practices, and Procedures, (b) Council organization, (c) employment practices, (d) financial management systems, and (e) recordkeeping. Included are some of the changes to the fishery management process approved by the Under Secretary that had been recommended by the two fishery management studies commissioned by NOAA in 1985 and 1986: the NOAA/Council Task Group Report, and the NOAA Fishery Management Study. These two studies, each of which generated wide public comment, were undertaken to assess the Magnuson Act fishery management system after ten years of operation, with a view to making administrative and legislative improvements.

Other 1986 efforts to examine the Magnuson Act system, including the Mackerel Investigative Committee, the joint New England and Mid-Atlantic Council proposal, and the Center for Ocean Management Systems conference on Rethinking Fishery Management, have figured in the development of these regulations and guidelines. Some of the ideas are derived from procedures successfully implemented by the Councils over the years. Selected material from the Magnuson Act Operations Handbook and from the Operational Guidelines for the Fishery Management Process has been updated and included.

Three new parts and one subpart have been added: (1) Part 500—Definitions, is designed ultimately to consolidate the definitions, word usages, and abbreviations that apply to Chapter 6 of the CFR in one place. For purposes of this revision, only those definitions broadly connected with Parts 601-605 are included; definitions and word usages uniquely associated with particular topics remain in their appropriate section. (2) Part 601, Subpart D—Membership, addresses requirements affecting Council members individually, such as appointment, term, removal, conduct, compensation, financial disclosure, and so forth. (3) Part 604—Other Applicable Law—describes the requirements of other law that the Secretary has determined to be applicable to the fishery management process. (4) Part 605—Guidelines for Council Operations and Administration—provides guidance for the development of (a) fishery management plans, and (b) each Council's Statement of Organization, Practices, and Procedures (SOPP).

The basic structure and authorities under the Magnuson Act were not changed by Title I of Pub. L. 99-659; however, certain requirements were modified or added. Provisions reflecting approved Task Group and Study recommendations are identified with an asterick (*) in the following descriptive text. Statutory procedures addressed in these regulations include:

Council Structure and Operation

*(1) Nomination and Appointment of Council Members**

Section 601.33(b) defines "knowledgeable and experienced" to clarify the basis on which governors nominate and the Secretary appoints. This section also includes the Pub. L. 99-659 requirement that governors consult commercial and recreational fishing representatives in the nomination

process, and that the Secretary ensure a fair apportionment of membership. An oath of office, recommended by the Fishery Management Study, is included. The financial disclosure requirements of Pub. L. 99–659 are set forth in § 601.37. In addition, NOAA is making a technical amendment, recommended by the Study, to eliminate confusion regarding geographic proprietorship of a Council seat. By deleting the obligatory and at-large classification, governors are required to submit nominations for every vacancy regardless of perceived interstate representational patterns. It does not change the State representation nor the Governor's obligation to nominate three names for each vacancy. It does, however, provide greater flexibility for the Secretary in choosing among names provided by the Governors, because individual seats would not be designated. NOAA particularly solicits comments on these provisions.

(2) Council Procedures for Protection of Confidential Statistics

Section 601.27 specifies that Council procedures must be consistent with procedures of the Secretary and the laws and regulations of a State submitting them, and expresses NOAA policy with regard to Council member and staff access to confidential statistics, pursuant to Pub. L. 99–659. These regulations supplement 50 CFR Part 603, which is being revised to regionalize the access system. Section 605.21 specifies that the Council SOPP should include these procedures.

(3) Security Investigations and Clearances

Section 601.38 provides expanded and updated instruction regarding the security clearance process. Paragraphs (h), (i), and (j) require the submission of any lawful disclosure agreement, required by the National Security Council or other lawful Directive, that may be developed in the future. (Public Law 100–202 prohibits the use of appropriated funds during FY 88 to require submission of, to implement, or to enforce the current Government-wide Non-Disclosure Agreement Form SF–189, "Classified Information Non-Disclosure Agreement.")

Fishery Management Process

*(4) Role of Council Advisory Groups**

Section 605.23(d) highlights the functions of the advisory groups and specifically defines advisory group involvement in the fishery management planning and development process, as per Pub. L. 99–659. This section, in combination with Part 605, Subpart B, suggests an operational structure that responds to recommendations from both commissioned studies. Part 605, Subpart B, describes a process whereby issues can be identified and resolved, and available expertise is called upon on a continuing basis, including relevant NMFS offices, State and academic scientists, advisory groups, planning teams, and others as appropriate.

*(5) The Conservation Standard**

In a separate action, NOAA is in the process of developing amendments to the guidelines for two of the national standards (§§ 602.11 and 602.12), precipitated in part by recommendations of the NOAA Fishery Management Study. The Study recommended that NOAA be responsible for determining a biologically acceptable catch for each managed fishery—the total allowable removals from the resource which would maintain a healthy and productive resource into the future. The Study's intent was that stocks be maintained at some level above that which preserves the minimum spawning stock from recruitment overfishing. The Study sought a conservation standard such that stocks are not continually driven to or maintained at the threshold of overfishing. NOAA is currently in the process of developing this conservation standard through a series of NMFS/Council workshops.

*(6) The Stock Assessment and Fishery Evaluation (SAFE) Report**

As part of this separate action to amend the guidelines for national standards 1 and 2, NOAA is also proposing that a periodic Scientific Assessment and Fishery Evaluation (SAFE) document or set of documents be prepared or aggregated as a summary of the best biological, social, and econmic information available to a Council when it needs such data to determine annual harvest levels or OYs for species in each fishery management unit.

Recognizing the need for early public involvement in developing new approaches, NOAA is including the SAFE proposal language in § 605.13 of *these* guidelines—analogous to an Advance Notice of Proposed Rulemaking—to invite public comment early in the process. However, as indicated above, NOAA intends to present the SAFE proposal again as part of the proposed amendments to national standard guidelines 1 and 2.

While the Secretary has responsibility for assuring that the SAFE report is produced, it is not intended to be exclusively authored by NOAA. The SAFE report may be produced by any combination of talent from Council, academic, government, or other sources. The SAFE reports are not required to be revised each year, except as there have been new developments or significant changes in a fishery. Although the contents of SAFE reports are not mandatory, certain basic descriptive data on the stocks and industry should be included.

The SAFE report is designed to provide a tracking tool for assessing the relative achievement of FMP objectives. It would establish a time-series data base indicating the relative health of stocks and the industry dependent on them. Including social and economic information in the same document or set of documents with biological information does not diminish the integrity of either type of information. By providing a summary of the best scientific information available for each type of data required in the determination of OY, subject to Council and outside peer view, the SAFE report is designed to improve the ability of Councils to derive OY or any specified harvest level as the Act prescribes.

Other Applicable Law

(7) Administrative Operations and Employment Practices

Section 604.3 address the statutes in this category, which include the Federal Tort Claims Act, the Fair Labor Standards Act, conflict of interest statutes, Workmen's Compensation, and Unemployment Compensation.

(8) The Fishery Management Decision Process

Section 604.4 addresses laws in this category, which require consideration of environmental, paperwork, and/or economic and social impacts, or establish rules of procedure for public and State participation or access. They include the Administrative Procedure Act, the National Environmental Policy Act, the Paperwork Reduction Act, the Regulatory Flexibility Act, Executive Order 12291, and Executive Order 12612.

(9) Uses of Oceans and Coastline

Section 604.5 explains how the following statutes affect the fishery management process: the Coastal Zone Management Act, the Endangered Species Act, the Marine Mammal Protection Act, and the Marine Protection, Research, and Sanctuaries Act.

Administrative Management Systems

(10) Employment Practices

Section 605.25 establishes guideline standards to be implemented in each Council's SOPP, for staffing, recruitment, details, personnel actions, salary and wage administration, benefits, and travel reimbursement.

(11) Financial Management

Section 605.26 sets out the cooperative agreement requirements and details relevant portions of Office of Management and Budget (OMB) Circular A–110 governing financial management systems, procurement, property and space management, and financial reporting. It establishes audit schedules and criteria for programmatic funding.

(12) Recordkeeping

Section 605.27 addresses the requirements for FMP administrative records, Privacy Act records, and Freedom of Information Act requests.

In summary, the proposed regulations/guidelines have been directed to providing uniform standards and guidelines which clarify the system and strengthen accountability at both the administrative and programmatic levels.

Classification

The Under Secretary for Oceans and Atmosphere has determined that this proposed rule is not a "major" rule under E.O. 12291 requiring a regulatory impact analysis. It prescribes agency policies and procedures and will have no economic impact until specific management decisions contained within specific FMPs are made; until a given FMP is developed there is no basis for evaluating the consequences of these management decisions. Economic impact on small entities is addressed at a later date through regulatory flexibility analyses for individual FMPs. For the same reasons, the General Counsel of the Department of Commerce has certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

This proposed rule is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02–10. Section 601.37 proposes a collection-of-information requirement subject to the Paperwork Reduction Act which has been approved by the Office of Management and Budget under Control No. 0648–0192 This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612, and is issued in compliance with Executive Order 12291.

Dated: June 6, 1988.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Parts 600, 604, and 605 are proposed to be added, and Part 601 is proposed to be revised as set forth below:

PART 600—STYLE GUIDE

Sec.

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

§ 600.1 Definitions.

The terms used in these regulations/guidelines (Parts 600, 601, 604, and 605) have the meanings that are prescribed in section 3 of the Magnuson Act, 16 U.S.C. 1802. In addition, the following definitions apply:

Advisory group—means a Scientific and Statistical Committee (SSC) or Advisory Panel (AP) established by a Council under the Magnuson Act.

Allocation—means direct and deliberate distribution of the opportunity to participate in a fishery among identifiable, discrete user groups or individuals.

Assistant Administrator—means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration or a disignee.

Center—means one of the National Marine Fisheries Service (NMFS) major research centers that supervise the operations of approximately 25 fishery science laboratories throughout the United States.

Council—means one of eight Regional Fishery Management Councils established under the Magnuson Act: New England, Mid-Atlantic, South Atlantic, Caribbean, Gulf of Mexico, Pacific, North Pacific, Western Pacific.

Exclusive economic zone (EEZ)—means the zone established by Presidential Proclamation 5030, dated March 10, 1983, and is that area adjaceant to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishery magagement—means the system used to conserve and allocate the fishery resource—including research and data collection; specification of objectives and management measures; establishment, enforcement, and evaluation of regulations.

Fishery management plan (FMP)—means a document that contains a systematic description of a given fishery and the objectives and management measures for the fishery. Required and discretionary contents appear in section 303 of the Magnuson Act. Guidelines for contents of an FMP appear in the NMFS *Operational Guidelines: Fishery Management Plan Process*, Phase II, 1988.

Fishery management unit (FMU)—means a fishery or that portion of a fishery identified in an FMP relevant to the FMP's management objectives. The choice of an FMU depends on the focus of the FMP's objectives, and may be organized around biological, geographic, economic, technical, social, or ecological perspectives.

Grants Officer—means the NOAA official who signs, on behalf of the government, the cooperative agreement providing funds to the Council.

Highly migratory species—means the species of tuna which in the course their life cycle spawn and migrate over great distances of the ocean, including, but not limited to:

Albacore, *Thunnus alalunga;*

Bigeye tuna, *Thunnus obesus;*

Bluefin tuna, *Thunnus thynnus;*

Southern bluefin tuna, *Thunnus maccoyii;*

Yellowfin tuna, *Thunnus albacares;* and;

Skipjack tuna, *Euthynnus pelamis.*

Industry—means both recreational and commercial fishing, and includes the harvesting, processing, and marketing sectors.

Magnuson Act—means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*)

Management measure(s)—means one or more technique(s) through which the objectives for a given fishery are achieved; a management measure embodied in a regulation has the force of law.

Plan Team—means a Council working group selected from agencies, institutions, and organizations having a role in the research and/or management of fisheries, whose primary purpose is to assist the Council in the preparation and/or review of FMPs, amendments, and supporting documents for the Council, and/or SSC and AP.

Region—means one of five NMFS Regional Offices responsible for administering the management and development of marine resources in the United States in their respective geographical regions.

Regional Director (RD)—means the director of a NMFS Regional Office or a designee. Regional Directors serve on the various Councils, as specified by § 605.33. RDs may arrange for the administrative services offered by the DOC Regional Administrative Support Centers.

Secretary—means the Secretary of Commerce or a designee.

Stock assessment—means the process of collecting and analyzing biological and statistical information to determine the changes in the abundance of fishery stocks in response to fishing, and, to the extent possible, to predict future trends of stock abundance. Stock assessments are based on resource surveys; knowledge of the habitat requirements, life history, and behavior of the species; the use of environmental indices to determine impacts on stocks; and catch statistics. Stock assessments are used as a basis to "assess and specify the present and probable future condition of a fishery," (as is required by the Magnuson Act), and are summarized in the Stock Assessment and Fishery Evaluation (SAFE) or similar document.

Stock Assessment and Fishery Evaluation (SAFE)—means a document or set of documents that provides Councils with a summary of the most recent biological condition of species in a fishery management unit, and the social and economic condition of the recreational and commercial fishing industries and the fish processing industries. It provides, on a periodic basis, the best available scientific information concerning the past, present, and possible future condition of the stocks and fisheries being managed under Federal regulation.

Under Secretary—means the Under Secretary of Commerce for Oceans and Atmosphere, who is Administrator of the National Oceanic and Atmospheric Administration (NOAA), or a designee.

§ 600.2 Word usage.

(a) *Must* is used, instead of "shall", to denote an obligation to act; it is used primarily when referring to requirements of the Magnuson Act, the logical extension thereof, or of other applicable law.

(b) *Shall* is used only when quoting statutory language directly, to avoid confusion with the future tense.

(c) *Should* is used to indicate that an action or consideration is strongly recommended to fulfill the Secretary's interpretation of the Magnuson Act, and is a factor reviewers will look for in evaluating a SOPP or FMP.

(d) *May* is ued in a permissive sense.

(e) *May not* is proscriptive; it has the same force as *must not*.

(f) *Will* is used descriptively, as distinguished from denoting an obligation to act or the future tense.

(g) *Could* is used when giving examples, in a hypothetical permissive sense.

(h) *Can* is used to mean "is able to" as distinguished from "may."

§ 600.3 Abbreviations.

(a) *Fishery management terms.*

ABC—acceptable biological catch
DAH—estimated domestic annual harvest
DAP—estimated domestic annual processing
EEZ—exclusive economic zone
FMP—fishery management plan
FMU—fishery management unit
JVP—joint venture processing
MSY—maximum sustainable yield
OY—optimum yield
PMP—preliminary fishery management plan
TAC—total allowable catch
TALFF—total allowable level of foreign fishing

(b) *Legislation.*

APA—Administrative Procedure Act
CZMA—Coastal Zone Management Act
ESA—Endangered Species Act
FOIA—Freedom of Information Act
MFCMA—Magnuson Fishery Conservation and Management Act
MMPA—Marine Mammal Protection Act
MPRSA—Marine Protection, Research, and Sanctuaries Act
NEPA—National Environmental Policy Act
PA—Privacy Act
PRA—Paperwork Reduction Act
RFA—Regulatory Flexibility Act

(c) *Federal agencies.*

CEQ—Council on Environmental Quality
DOC—Department of Commerce
DOI—Department of the Interior
DOS—Department of State
EPA—Environmental Protection Agency
FWS—Fish and Wildlife Agency
NMFS—National Marine Fisheries Service
NOAA—National Oceanic and Atmospheric Administration
OMB—Office of Management and Budget
SBA—Small Business Administration
USCG—United States Coast Guard

PART 601—REGIONAL FISHERY MANAGEMENT COUNCILS

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

Subpart A—General

§ 601.1 Purpose and scope.

(a) This part governs the jurisdiction, organization, practices, and procedures of the eight Regional Fishery Management Councils (Councils) established by the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act), 16 U.S.C. 1801 *et seq.* The Councils are institutions created by Federal law, whose actions must conform to the uniform standards established by the Secretary of Commerce in this part.

(b) The definitions, word usage, and abbreviations set forth in Part 600 apply within this part.

Supbart B—Boundaries

§ 601.11 Intercouncil boundaries.

(a) *New England and Mid-Atlantic Councils.* The boundary begins at the intersection point of Connecticut, Rhode Island, and New York at 41 18'16.249" N. latitude and 71 54'28.477" W. longitude and proceeds south 37 22'32.75" E. to the point of intersection with the outward boundary of the exclusive economic zone (EEZ) as specified in the Magnuson Act.

(b) *Mid-Atlantic and South Atlantic Councils.* The boundary begins at the seaward boundary between the States of Virginia and North Carolina, and proceeds due east to the point of intersection with the outward boundary of the EEZ as specified in the Magnuson Act.

(c) *South Atlantic and Gulf of Mexico Councils.* The boundary coincides with the line of demarcation between the Atlantic Ocean and the Gulf of Mexico, which begins at the intersection of the outer boundary of the EEZ, as specified in the Magnuson Act, and 83 00' W. longitude, proceeds northward along that meridian to 24 35' N. latitude (near the Dry Tortugas Islands), thence eastward along that parallel, through Rebecca Shoal and the Quicksand Shoal, to the Marguessas Keys, and then through the Florida Keys to the mainland at the eastern end of Florida Bay, the line so running that the narrow waters within the Dry Tortugas Island, the Marquessas Keys and the Florida Keys, and between the Florida Keys and the mainland, are within the Gulf of Mexico.

§ 601.12 Intercouncil fisheries.

If any fishery extends beyond the geographical area of authority of any one Council, the Secretary may—

(a) Designate a single Council to prepare the FMP for such fishery and any amendments to such FMP, in consultation with the other Councils concerned; or

(b) Require that the FMP and any amendments be prepared jointly by all the Councils concerned.

(1) A jointly prepared FMP or amendment must be adopted by a majority of the voting members, present and voting, of each participating Council. Different conservation and management measures may be developed for specific geographic areas, but the FMP should address the entire geographic range of the stock(s).

(2) In the case of joint FMP or amendment preparation, one Council will be designated as the "administrative lead." The "administrative lead" Council is responsible for the preparation of the FMP or any amendments and other required documents for submission to the Secretary.

(3) None of the Councils involved in joint preparation may withdraw without Secretarial approval. If Councils cannot agree on approach or management measures within a reasonable period of time, the Secretary may designate a single Council to prepare the FMP or may issue the FMP under Secretarial authority.

Subpart C—Uniform Standards for Organization, Practices, and Procedures

§ 601.21 Purpose.

Section 302(f)(6) of the Magnuson Act, 16 U.S.C. 1852(f)(6), requires each Council to determine its own organization, practices, and procedures for carrying out its functions in accordance with such uniform standards as are prescribed by the Secretary. This subpart provides these uniform standards.

§ 601.22 Council statement of organization, practices, and procedures.

(a) Councils are required to publish and make available to the public a Statement of Organization, Practices, and Procedures (SOPP) in accordance with such uniform standards as are prescribed by the Secretary. The purpose of the SOPP is to inform the public how the Council operates within the framework of the Secretary's uniform standards.

(b) Accordingly, within 180 days of the effective date of these regulations, Councils must prepare and submit for Secretarial review and approval amendments to their current SOPPs which are consistent with the guidelines in Part 605, statutory requirements of the Magnuson Act, and other applicable law. Upon approval of a Council's SOPP amendment by the Secretary, a Notice of Availability will be published in the **Federal Register**, including an address where the public may write to request copies.

(c) Councils may deviate, where lawful, from the guidelines with appropriate supporting rationale, and Secretarial approval of each amendment to a SOPP would constitute approval of any such deviations for that particular Council.

§ 601.23 Employment practices.

Council members (except for Federal government officials) and staff are not Federal employees subject to Office of Personnel Management (OPM) regulations. Council staffing practices are set forth in each Council's Statement of Operating Practices and Procedures. (See Part 605 for guidelines concerning Council personnel matters and standards.)

§ 601.24 Budgeting, funding, and accounting.

The Councils' administrative operations are governed by the requirements of OMB Circular A-110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations), and A-122 (Cost Principles for Nonprofit Organizations), and the Council Statement of Organization, Practices, and Procedures.

§ 601.25 Support services.

Section 302(f)(3) of the Magnuson Act directs the Secretary to provide the Councils with administrative support services necessary for their effective functioning.

(a) Section 302(f)(4) of the Magnuson Act directs the Administrator of the General Services Administration to furnish each Council with such offices, equipment, supplies and services as he is authorized to furnish to any agency or instrumentality of the United States.

(b) Section 302(f)(2) of the Magnuson Act authorizes all Federal agencies to detail personnel on a reimbursable basis to the Council after consulting with the Assistant Administrator.

(c) NOAA regional offices are assigned to arrange for services and support to each Council as follows:

Council	Servicing field unit
New England	Northeast Region, NMFS
Mid-Atlantic	Northeast Region, NMFS
South Atlantic	Southeast Region, NMFS
Caribbean	Southeast Region, NMFS
Gulf of Mexico	Southeast Region, NMFS
Pacific	Northeast Region, NMFS
North Pacific	Alaska Region, NMFS
Western Pacific	Southwest Region, NMFS

(d) Transfer of funds between NMFS and Councils. Once funds are provided to the Councils, they cannot be transferred from a Council to a NMFS Center or Region, or any other Federal agency. Councils can request that NOAA transfer funds identified for Council programmatic activities to NMFS' Centers or Regional Offices.

(1) Councils may not reimburse, or otherwise pay for, NOAA employees' travel, per diem, or other expenses to participate in Council activities.

(2) Regional Offices or Centers may not transfer funds to the Council, or in any way purchase products, services, or supplies directly from the Councils. Any transfer of funds or purchases of any type must be made through NOAA, with appropriate documents prepared by the Assistant Administrator, to secure the services or goods from the Councils.

§ 601.26 Other applicable law.

Under section 303(a)(1)(C) of the Magnuson Act, an FMP must be "consistent with the national standards, the other provisions of this Act, and any other applicable law." Part 604 sets forth the Secretary's determination and

announcement to the public of other law that is considered applicable to the fishery management process.

§ 601.27 Protection of confidentiality of statistics.

(a) Each Council must establish appropriate procedures applicable to it and to its committees and advisory panels for ensuring the confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited to, procedures for the restriction of Council member or advisory group access and the prevention of conflicts of interest, except that such procedures must be consistent with procedures of the Secretary, and, in the case of statistics submitted to the Council by a Staste, the confidentiality laws and regulations of that State.

(b) NOAA does not release or allow access to confidential information in its possession to Council members and members of Council advisory groups. Council staff access to such data is granted after Councils have:

(1) Documented a need for unaggregated data and

(2) Established procedures to ensure the confidentiality of such information as required by the Magnuson Act.

Subpart D—Membership

§ 601.31 Purpose.

This subpart sets forth obligations under law and Secretarial policy that affect Council members individually. It provides information for the public regarding the nomination process, qualification for Council membership, compensation, and conduct while in office.

§ 601.32 Terms of Council members.

Voting members (other than principal State officials, the RD, or other designees) are appointed for a term of three years and may be reappointed. An individual appointed to fill a vacancy occurring prior to the expiration of any term of office will be appointed for the remainder of that term. The anniversary date for measuring terms of membership is August 11. The Secretary may designate a term of appointment shorter than the normal three years if necessary to provide for balanced expiration of terms of office.

§ 601.33 Appointments.

(a) Each year approximately one-third of the appointed members' terms expire; members will be appointed or reappointed by the Secretary from lists of nominees submitted by March 15 of each year by the Governors of each constituent State. Governors must submit the names of three nominees for each applicable vacancy. These procedures also apply when a vacancy occurs prior to the expiration of a member's term.

(b) The Governors are responsible for nominating only those persons who meet the qualification requirements of the Magnuson Act; they must provide appropriate documentation to the Secretary that each nomination was made in consultation with commercial and recreational fishing interests, and each nominee is knowledgeable and experienced in one or more of the following ways related to the fishery resources of the geographical area of concern to the Council;

(1) At least three years' experience in the harvesting, processing, or market of fish or fish products;

(2) At least three years' experience promoting fishing for pleasure, amusement, relaxation or consumption. This may include operating a recreational fishing business;

(3) Former or current officer or leadership role in a State, regional, or national organization made up of representatives of any of the interests described in § 601.33(b)(1) and (2);

(4) At least three years' experience managing and conserving natural resources, including at least one year interacting with industry, government bodies, academic institutions, and public agencies. This would include experience serving as a member of a Council, Advisory Panel, or Scientific and Statistical Committee.

(5) At least three years' experience representing consumers of fish or fish products through participation in local, State, or national organizations, or performing other activities specifically related to the education and/or protection of the consumer of marine resources.

(6) At least three years' experience in teaching, journalism, writing, or researching matters related to fisheries, fishery management and fishery resource conservation. Such experience includes both natural and social sciences.

(7) At least three years' consulting or legal experience in areas directly related to fisheries resource management, conservation, or use, including interacting with officials of local, State, or Federal agencies.

(c) To assist in identifying necessary qualifications, each nominee should furnish to the appropriate Governor's office a current résumé or equivalent, describing career history—with particular attention to experience related to the above criteria. Nominees may provide such information in any format they wish. Career and educational history information sent to the Governors should also be sent to the Office of Fisheries Conservation and Management.

(d) If the Secretary determines that any nominee is not qualified, the Secretary will notify the appropriate Governor of that determination. The Governor may then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the nominee in question. The Secretary reserves the right to determine whether nominees are qualified.

(e) Each member State must have at least one appointed voting member serving on the Council who has been nominated by the Governor of that State. If a Governor fails to submit a list of qualified nominees within the time allotted, and if that State is *not* already represented by one appointed voting member, the seat will remain vacant until three qualified nominations are received and have been acted upon by the Secretary.

(f) If a Governor fails to submit a list of qualified nominees within the time allotted, and that member State is already represented by one appointed voting member, then the new member(s) will be appointed from the list of names submitted by the Governors of the other constituent States.

(g) The Secretary must ensure a fair apportionment, on a rotating or other basis, of the active participants (or their representatives) involved in the fisheries under Council jurisdiction. Further, the Secretary must take action to ensure, to the extent practicable, that those persons dependent for their livelihood upon the fisheries within Council jurisdiction are fairly represented as voting members.

§ 601.34 Oath of office.

As trustees of the Nation's fishery resources, all voting members must take an oath specified by the Secretary as follows: I, _____, as a duly appointed member of a Regional Fishery Management Council established under the Magnuson Fishery Conservation and Management Act, hereby promise to conserve and manage the living marine resources of the United States of America by carrying out the business of the Council for the greatest overall benefit of the Nation. I recognize my responsibility to serve as a knowledgeable and experienced trustee of the Nation's marine fisheries resources, being careful to balance competing private or regional interests.

and always aware and protective of the public interest in those resources. I commit myself to uphold the provisions, standards, and requirements of the Magnuson Fishery Conservation and Management Act and other applicable law, and shall conduct myself at all times according to the rules of conduct prescribed by the Secretary of Commerce. This oath is freely given and without mental reservation or purpose of evasion.

§ 601.35 Rules of conduct.

(a) Council members, as Federal officeholders, are subject to most Federal criminal statutes covering bribery, conflict-of-interest, disclosure of confidential information, and lobbying with appropriated funds. In particular, the following provisions apply:

(1) 18 U.S.C. 201—prohibits offer or acceptance of anything of value to influence any official act;

(2) 18 U.S.C. 203, 205—prohibits officials from representing anyone before a Federal court or agency in a matter involving a specific party in which the United States has a direct and substantial interest and in which the official has worked personally and substantially.

(3) 18 U.S.C. 207—prohibits a former official from representing others before a Federal agency concerning a particular matter involving specific parties in which the official participated personally and substantially as a Federal official or which was under the person's official responsibility.

(4) 18 U.S.C. 208—prohibits official acts in a matter in which the official has a personal financial interest. This prohibition does not apply to a financial interest of a Council voting member or Executive Director if the official obtains a waiver under 18 U.S.C. 208(b), or if the financial interest is in a harvesting, processing, or marketing activity that has been disclosed in a report filed under § 601.37.

(5) 18 U.S.C. 209—prohibits an official from receiving compensation for preforming Federal duties from a source other than the United States Government. This restriction does not apply to an official who has served for 130 days or less in a 365-day period.

(6) 18 U.S.C. 210, 211—prohibits offer or acceptance of value to procure appointment to public office.

(7) 18 U.S.C. 1905—prohibits disclosure of trade secrets or confidential commercial information except as provided by law.

(8) 18 U.S.C. 1913—prohibits use of appropriated funds to influence a member of Congress to favor or oppose any legislation or appropriation. However, this prohibition does not apply when responding to a request from a member of Congress or a Congressional Committee. Personal communications of a Council member or employee at his own expense that are indentified as such are not prohibited.

(b) The Councils are responsible for maintaining high standards of ethical conduct among themselves, their staffs, and their advisory groups. In addition to abiding by the applicable Federal conflict of interest statutes, which apply to Council members, both members and employees of the Councils must comply with these standards of conduct:

(1) No employee of a Council may use his or her official authority or influence derived from his or her position with the Council for the purpose of interfering with or affecting the result of an election to or a nomination for any national, State, county, or municipal elective office.

(2) No employee of a Council may be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Magnuson Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or any political party in any national, State, county, or municipal election, or on account of his or her political affiliation.

(3) No Council member or employee may pay, or offer, or promise, or solicit, or receive from any person, firm, or corporation, a contribution of money or anything of value in consideration of either support or the use of influence or the promise of support, or influence in obtaining for any person, any appointive office, place or employment under the Council.

(4) No employee of a Council may have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties. However, an Executive Director may retain a financial interest in harvesting, processing or marketing activities, and participate in matters of general public concern on the Council which might affect that interest, if that interest has been disclosed in a report filed under § 601.37.

(5) No Council member, employee of a Council, or member of a Council advisory group may use or allow the use, for other than official purposes, of information obtained through or in connection with his or her Council employment that has not been made available to the general public.

(6) No Council member or employee of the Council may engage in criminal, infamous, dishonest, notoriously immoral or disgraceful conduct prejudicial to the Council.

(7) No Council member or employee of the Council may use Council property on other than official business. Such property must be protected and preserved from improper or deleterious operation or use.

(8) No Council member may participate

(i) Personally and substantially as a member through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in a particular matter in which he or she has a financial interest; or

(ii) In any matter of general public concern which is likely to have a direct and predictable effect on a member's financial interest unless that interest is in harvesting, processing, or marketing activities and has been disclosed in a report filed under § 601.37. For purposes of this subsection, the member's financial interest includes that of the member's spouse, minor child, partner, organization in which the member is serving as officer, director, trustee, partner or employee, or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment.

§ 601.36 Removal.

The Secretary may remove for cause any Secretarially-appointed member of a Council in accordance with section 302(b)(5) of the Magnuson Act wherein the Council concerned first recommends removal by not less than two-thirds of the voting members. A removal recommendation of a Council must be in writing and accompanied by a statement of the reasons upon which the recommendation is based.

§ 601.37 Financial disclosure.

(a) The Magnuson Act requires the disclosure by Council nominees, appointees, voting members, and Executive Directors of any financial interest of the reporting individual in any harvesting, processing, or marketing activity that is being, or will be, undertaken within any fishery under the jurisdiction of the individual's Council or of any such financial interest of the reporting individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee. The information required to be reported must be disclosed on NOAA Form 88-195, "Statement of Financial Interests for Use by Voting Members, Nominees and Executive Directors of Regional Fishery Management Councils," or such other form as the Secretary, or designee,

may prescribe. The report must be filed by nominees for Secretarial appointment before the date of appointment as prescribed by the Secretary. Other voting members and Executive Directors must file the report with the Executive Director of the appropriate Council prior to taking office. Individuals must update the form at any time a reportable financial interest is acquired or the financial interests are otherwise substantially changed. The information required to be submitted will be kept on file, and made available for public inspection at reasonable hours at the Council offices. A copy of the form may be obtained from the appropriate Regional Office.

(b) The provisions of 18 U.S.C. 208 do not apply to an individual who has filed a financial report under this section regarding an asset that has been reported.

§ 601.38 Security investigations and clearances.

(a) Access to security classified material is governed by security regulations and procedures pursuant to E.O. 12356, effective August 1, 1982. No person may have access to classified information unless that person has been determined to be trustworthy, and unless access is necessary for the performance of official duties. This determination, referred to as a security clearance, shall be based on an investigation in accordance with the standards and criteria of Department Administrative Order (DAO) 207–4. The authority having custody of the classified information determines whether the requester has a need to know the information in the performance of the requester's official duties. The noncritical sensitive position has access to information classified as CONFIDENTIAL or SECRET which is normally sufficient for Council purposes; however, clearance for access to TOP SECRET information may be granted by the Secretary following regular Federal procedures. Foreign nationals may not receive security clearance; however, with the consent of the Director, DOC Office of Security, classified information may be released to a foreign national.

(b) All Council members, staff, and members of advisory groups are individually required to protect classified information and may be subject to sanctions if they violate E.O. 12356, 18 U.S.C. 793, 794, or 952, or the National Security Act (50 U.S.C. 401 *et seq.*)

(c) Security clearances are required for all Council members and Executive Directors. Other staff and advisory group members may be required to obtain clearances at the Councils' discretion. Those who have not been cleared may not participate in meetings closed for reasons of national security, or have access to any classified information.

(d) To initiate security assurances, Council members, staff, and members of advisory groups and nominees must submit two documents to initiate security assurances:

(1) An FBI fingerprint card (FD–258), and

(2) A Standard Form 85, "Data for Nonsensitive or Noncritical-Sensitive Position."

(e) The Standard Form 85 is a multi-use biographical form developed by the Office of Personnel Management. The following instructions apply to completion of the SF–85:

(1) The form must be typed.

(2) Blocks 1, 2, 3, and 4 are self-explanatory.

(3) Block 5 must contain a title of a Council-related position, e.g., "Council member", "Council staff", "advisory group member."

(4) Block 6 must contain "NMFS, Wash. DC 20235."

(5) Block 7 must contain date and places of residence for the most recent five (5) year period.

(6) Blocks 8, 10, 11, 12, and 13 are self-explanatory.

(7) Block 9 must be marked "Noncritical-Sensitive."

(8) Block 14 must specifically list the nominee's employment for the most recent five (5) year period.

(9) The form must be signed and dated.

(f) Form FD–258 is the standard fingerprint card used by the FBI. Fingerprints are not maintained on file with the FBI but are destroyed once the criminal history check has been completed. Individuals may have their fingerprints taken at their local police department or at the personnel/security office of any Federal agency willing to provide the service.

(g) The security determination is valid for five (5) years.

(h) Individuals who are renominated and who have not undergone security processing within the five-year period will be required to submit a new processing package, including fingerprints.

(i) In addition to submission of SF–85 and FD–258, Council members, staff, and members of advisory groups will be required to submit a Non-Disclosure Agreement *in order to complete the clearance process,* as lawfully required by any National Security Council or other lawful Directive in accordance with its terms. Final security clearances will become effective only upon receipt by the DOC Office of Security of any lawfully required Non-Disclosure Agreement.

(j) After notification of appointment, new Council members should submit any lawfully required Non-Disclosure Agreement to the Office of Fisheries Conservation and Management through the RDs as quickly as possible.

(k) All other individuals are encouraged to submit any lawfully required Non-Disclosure Agreement simultaneously with the SF–85 and FD–258 to expedite final clearances.

(l) Councils should maintain adequate records to determine when to initiate renewal requests as clearances expire. It will be the responsibility of Council staffs to request (through the Office of Fisheries Conservation and Management), as appropriate:

(1) Initial and renewal security clearances for State designees/alternates, and all members of advisory groups, (SSC, AP, team members, etc.); and

(2) Initial and renewal security clearances for Council staff.

(m) Security clearances for U.S. Fish and Wildlife Service, U.S. Coast Guard, U.S. Department of State, and Marine Fisheries Commission non-voting members are obtained by the respective agencies. However, Council staffs are advised to verify periodically that these members have valid clearances in effect.

§ 601.39 Council member compensation.

(a) The voting members of each Council who are not employed by the Federal Government or any State or local government shall receive compensation at the daily rate for a GS–18 in the General Schedule when engaged in the actual performance of duties as assigned by the Chairman of the Council. Actual performance of duties, for the purposes of compensation, may include travel time.

(b) Council members whose eligibility for compensation has been established in accordance with NOAA guidelines will be paid on a contract basis without deductions being made for Social Security or Federal and State income taxes. A report of compensation will be furnished each year as required by the Internal Revenue Service. Such compensation may be paid on a full day's basis whether in excess of eight hours a day or less than eight hours a day. The time is compensable where the individual member is required to expend a significant private effort which substantially disrupts the daily routine to the extent that a work day is lost to the member. "Homework" time in

preparation for formal Council meetings is not compensable. State officials may be compensated at the GS–18 level if they can document they are on leave without pay (LWOP). (LWOP does not include annual leave, holidays, or weekends.)

(c) Non-government Council members receive compensation for:

(1) Days spent in actual attendance at a meeting of the Council or jointly with another Council.

(2) Travel on the day preceding or following a scheduled meeting that precluded the member from conducting his normal business on the day in question.

(3) Meetings of standing committees of the Council if approved in advance by the Chair.

(4) Individual member meeting with scientific and technical advisors when approved in advance by the Chair and a substantial portion of any day is needed.

(5) Conducting or attending hearings when authorized in advance by the Chair.

(6) Other meetings involving Council business when approved in advance by the Chair.

(d) The Council Chair must submit the Regional Office annually a report of Council member compensation authorized. This report shall identify, for each member, amount paid, dates, and location and purpose of meetings attended.

PART 604—OTHER APPLICABLE LAW

Sec.

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

§ 604.1 Definitions.

The definitions, word usage, and abbreviations set forth in Part 600 apply within this part.

§ 604.2 Categories.

Section 304(a)(1)(B) of the Magnuson Act, 16 U.S.C. 1854(a)(1)(B), requires that each FMP or amendment be reviewed for consistency with the national standards, the other provisions of the Magnuson Act and other applicable law. The list of laws affecting the Councils and their operations are grouped, for ease of description, into three general categories: those dealing with administrative operations and employment practices; those dealing with the fishery management decision process; and those dealing with other uses of the oceans and coastline. More detailed guidance is cited throughout this part and also appears in the NMFS *Operational Guidelines.*

§ 604.3 Administrative operations and employment practices.

Statutes in this category apply, in part, to Council staff, Council members, and members of Council advisory groups. These statutes include the Federal Tort Claims Act, 28 U.S.C. 1291, 1346, 1402, 2401, 2402, 2411, 2412, 2671–80; the Fair Labor Standards Act, 29 U.S.C. 201; the anti-lobbying statute, 18 U.S.C. 1913; the Trade Secrets Act, 18 U.S.C. 1905; the bribery and conflict of interest statutes, 18 U.S.C. 201, 203, 205, 207, 208, 209, 210, and 211; Workmen's Compensation, 5 U.S.C. 8101 *et seq.*; and Unemployment Compensation, 5 U.S.C. 8501 *et seq.* Applicability of these statutes is detailed in Part 601, Subpart D, and Part 605, Subpart C.

§ 604.4 The decision process.

This category of laws applies to the fishery management decision process, and requires consideration of environmental, paperwork, and/or economic and social impacts, or establishes rules of procedure for public participation or access. These statutes include the Administrative Procedure Act (APA), 5 U.S.C. 551–553; the National Environmental Policy Act (NEPA), 42 U.S.C. 4321; the Paperwork Reduction Act (PRA), 49 U.S.C. 3501; and the Regulatory Flexibility Act (RFA), 5 U.S.C. 601. Procedures under these statutes and under Executive Orders (E.O.) 12291 and 12612 are described as follows:

(a) *Administrative Procedure Act (APA).* Sections of the APA (5 U.S.C. 551–553) establish procedural requirements applicable to decisionmaking of Federal agencies. The purpose is to ensure public access to the rulemaking process, protect the rights of individuals under the Privacy Act and make available to the public information requested under the Freedom of Information Act. The effect on the Magnuson Act process is: To require a minimum 15- to 30-day public comment period for proposed rules and a 30-day delayed effectiveness date for final rules, with justification possible for waiving or shortening both; to require the Council to maintain security of personal records of Council members, employees, consultants under contract, and advisory group members; and to require NOAA to respond to requests for information under specified criteria for denial and time limits. Required procedures under these statutes are detailed in sections 604.34 and 605.25.

(b) *E.O. 12291.* This Executive Order (E.O.) applies to the issuance of new rules, the review of existing rules, and the development of legislative proposals concerning regulations. The E.O. requires that: regulatory objectives and priorities be established with the aim of maximizing net benefits to society; rules be developed with a cost/benefit approach when possible; the chosen regulatory approach or alternative be the one with the least net cost to society; regulatory action should not be undertaken unless the potential benefits outweigh the potential costs to society; and administrative decisions be based on adequate information concerning the need for and consequences of the proposed government action. The E.O. also requires that a semi-annual regulatory agenda be prepared. The effect on the Magnuson Act process is to require all rules to be reviewed by OMB unless covered by specific exemption, and to require a Regulatory Impact Analysis if the rule is "major". A prior determination whether the rule is major or nonmajor and whether the rule complies with the above requirements is made based on a Regulatory Impact Review.

(c) *National Environmental Policy Act (NEPA).* NEPA requires that the effects of Federal activities on the environment be assessed. NEPA's purpose is to ensure that Federal officials weigh and give appropriate consideration in policy formulation, decisionmaking, and administrative actions to environmental values and ecological, economic and social benefits and costs and that the public is provided adequate opportunity to review and comment on the impact of major Federal actions. NEPA requires preparation of an Environmental Impact Statement (EIS) for major Federal actions that significantly affect the quality of the human environment. NEPA's effect on the Magnuson Act process is that a draft EIS, or environmental assessment for a finding of no significant impact, must be prepared. NEPA procedures are detailed in NOAA Directives Manual (NDM) 02–10.

(d) *Paperwork Reduction Act (PRA).* The PRA requires agencies to minimize paperwork and reporting burdens whenever collecting information from the public. PRA's effect on the Magnuson Act process is that if an FMP requires any form of information collection from the public, that collection must receive OMB approval. To obtain OMB approval, a written justification must be submitted. In addition, formal Council input is needed each Spring when the overall NMFS

information collection budget request is formulated for submission to OMB. Procedures under the PRA are detailed in NDM 59–11.

(e) *Regulatory Flexibility Act (RFA).* The RFA establishes the principle that where Federal regulation is necessary, the regulation should be tailored to the regulated entity's size and capacity to bear the regulatory burden. RFA's effect on the Magnuson Act process is to require a determination of whether a proposed rule is likely to have a significant economic impact on a substantial number of small entities. If the determination is affirmative, initial and final regulatory flexibility analyses must be prepared to accompany the proposed and final rules respectively. These analyses must consider the benefits and costs of compliance, with particular emphasis on the effects of the rule on the competitive position, cash flow and liquidity, and ability of the small entity to remain in the market. The RFA also requires a projection of reporting and record-keeping requirements.

(f) *E.O. 12612.* This E.O. requires Executive departments and agencies, in formulating and implementing policies, to be guided by federalism principles and criteria. Federalism principles and criteria involve close consultation with the States in any actions which have substantial direct effects on the States or on the distribution of power and responsibility between and among the levels of government. The effect on the Magnuson Act process is to require the Councils to identify federalism issues before submitting management programs to the Secretary for approval. Any principal State official opposed to adoption of an FMP or amendment may file a dissenting report explaining the nature of the State's objection and its relation to the policies of the executive order. (See § 605.24(a)(3)(iv).)

§ 604.5 Uses of oceans and coastline.

This category of laws also applies to the fishery management process, and deals with the competing uses of the ocean, the protection of certain living marine resources and their habitats, and the management of the nation's coastal areas. These statutes include the Coastal Zone Management Act (CZMA), 16 U.S.C. 1451; the Endangered Species Act (ESA), 16 U.S.C. 1361; 1531; the Marine Mammal Protection Act (MMPA), 16 U.S.C. and Title III of the Marine Protection, Research and Sanctuaries Act (MPRSA), 16 U.S.C. 1431. Procedures under these statutes are described as follows:

(a) *Coastal Zone Management Act (CZMA).* The principal objective of the CZMA is to encourage and assist States in developing coastal zone management programs, to coordinate State activities, and to safeguard the regional and national interests in the coastal zone. Section 307(c) of the CZMA requires that any Federal activity directly affecting the coastal zone of a State be consistent with that State's approved coastal zone management program to the maximum extent practicable. CZMA's effect on the Magnuson Act process is to require determination that an FMP has no direct effect on the coastal zone, or is consistent with the State's approved coastal zone management program to the maximum extent practicable. Procedures under the CZMA are detailed in 15 CFR Part 930.

(b) *Endangered Species Act (ESA).* The ESA provides for the conservation of endangered and threatened species of fish, wildlife, and plants. The program is administered jointly by the Department of Interior (DOI), which generally has jurisdiction over terrestrial and freshwater species, and the Department of Commerce (DOC), which generally has jurisdiction over marine species. With respect to endangered or threatened sea turtles, DOC has jurisdiction while the turtles are in the water and DOI while the turtles are on land. Conflicts between the ESA and Federal actions are to be resolved by a consultation process between the project agency and DOC and/or DOI, as appropriate. ESA's effect on the Magnuson Act process is to require biological assessment and consultation with NMFS or the Fish and Wildlife Service (FWS) if an FMP or amendment may affect endangered or threatened species or cause destruction or adverse modification of any designated critical habitat. The consultation must conclude that there is no likelihood of jeopardy to any listed species, or, if jeopardy exists, reasonable and prudent alternatives approved by NMFS or FWS must be adopted before the FMP can be approved.

(c) *Marine Mammal Protection Act (MMPA).* The MMPA establishes a moratorium on the taking of marine mammals and a ban on the importation of marine mammal products with certain exceptions. Responsibility is divided between DOC (whales, porpoises, seals, and sea lions) and DOI (other marine mammals) to issue permits and to waive the moratorium for specified purposes, including incidental takings during commercial fishing operations. The Magnuson Act amended the MMPA to extend its jurisdiction to the EEZ. MMPA's effect on the Magnuson Act process is that if the FMP has an effect on the marine mammal population, certain information must be included in the EIS, and the FMP should indicate whether permits are needed for any incidental takings.

(d) *Marine Protection, Research and Sanctuaries Act (MPRSA).* Title III of the MPRSA authorizes the Secretary to designate as marine sanctuaries areas of the marine environment that have been identified as having special national significance due to their resource or human-use values. The Marine Sanctuaries Amendments of 1984 amend this Title to include, as consultative agencies in determining whether the proposal meets the sanctuary designation standards, the Councils affected by the proposed designation. The Amendments also authorize the Council affected to prepare draft regulations for the Secretary's approval, consistent with the Magnuson Act national standards and the goals and objectives of the proposed designation, for fishing within the EEZ as it may deem necessary to implement a proposed designation.

PART 605—GUIDELINES FOR COUNCIL OPERATIONS/ ADMINISTRATION

Subpart A—General

Sec.

Subpart B—Operations

Subpart C—Administration

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

Subpart A—General

§ 605.1 Purpose and scope.

(a) This part sets forth guidelines for the development of fishery management plans and for the organization, practices, and procedures of the Councils.

(b) The definitions, word usage, and abbreviations set forth in Part 600 apply within this part.

Subpart B—Operations

§ 605.11 General.

The primary functions of each Council are to develop, monitor, evaluate, and propose amendments to FMPs and associated regulations for each fishery that requires conservation and management within its geographical area of authority. The following describes the Councils' and the Secretary's roles and responsibilities and sets out key activities necessary to produce FMPs, amendments, and annual specifications acceptable for review by the Secretary. It is designed to—

(a) Bring to bear the necessary expertise on all aspects of the process;

(b) Be responsive to other applicable law, the public interest, and shifts in Council priorities and objectives; and

(c) Ensure the quality, relevance, reliability, and independence of science in the management process.

§ 605.12 Use of available expertise.

Councils should use all available expertise as necessary and appropriate in carrying out their functions. This includes experts within NMFS with Magnuson Act responsibilities, at State and academic institutions, Scientific and Statistical Committees (SSCs), Advisory Panels (APs), plan teams, and/or other working groups established to assist in the processes described below.

§ 605.13 Use of the best available scientific information.

Management decisions must be based on the best scientific information available concerning the present and probable future condition of the stocks.

(a) The Stock Assessment and Fishery Evaluation (SAFE) report is a document or set of documents that provides Councils with a summary of the most recent biological condition of species in the fishery management unit (FMU), and the social and economic condition of the recreational and commercial fishing industries and the fish processing industries. It summarizes, on a periodic basis, the best scientific information concerning the past, present, and possible future condition of the stocks and fisheries being managed under Federal regulation.

(1) The Secretary has the responsibility to assure that a SAFE report is prepared, reviewed annually, and changed as necessary for each FMP. The Secretary or Council may call on any combination of talent from Council, State, university, or other sources (but at a minimum must include Council and NMFS representatives) to acquire and analyze data and produce the SAFE report.

(2) The SAFE report provides information for determining annual harvest levels from each stock, documenting significant trends or changes in the resource and fishery over time, and assessing the relative success of existing State and Federal fishery management programs. In addition, the SAFE report may be used as a basis to update or expand previous environmental and regulatory impact documents, and ecosystem and habitat descriptions.

(3) Each SAFE report must be scientifically based, and cite data sources and interpretations.

(b) Each SAFE report should contain information on which to base harvest specifications. Examples are:

(1) Estimates of total biomass and/or spawning biomass for each stock in the FMU;

(2) Estimates of the annual surplus production (ASP) and maximum sustaimable yield (MSY) for each stock in the FMU;

(3) Description of the estimated biomass, ASP, and MSY in previous years relative to those estimates for the current or next year;

(4) Description of the model or assumptions on which these estimates are based and a discussion of the reliability of each estimate;

(5) If a stock is below the level which will produce MSY, estimated time necessary to allow a stock to rebuild to MSY, threshold or other specified level under various harvest levels, and prevailing environmental conditions; and

(6) Significant changes (if any) in the habitat or ecosystem since it was last described in the FMP, an amendment to the FMP, or previous SAFE report.

(c) Each SAFE report should contain information on which to assess the condition of the recreational and commercial fishing industries and fish processing industries. Examples are:

(1) Estimate of the amount of fish harvested from each stock in the FMU, by gear type and area, in the most recent three years and in the year immediately prior to implementation of the FMP governing fisheries for (or in) the FMU. If applicable, a description of the amount of fish harvested in the same time period by wholly domestic, joint venture and foreign fisheries;

(2) The approximate ex-vessel value of the harvested fish described in paragraph (c)(1) of this section;

(3) Amounts and estimated value of each type of processed products derived from the harvested fish described in paragraph (c)(1) of this section;

(4) Estimates of the numbers of commercial vessels by gear type and in terms of individual vessels involved in each fishery for (or in) the FMU;

(5) Estimates of the number of commercial fishermen employed in each fishery for (or in) the FMU;

(6) The numbers of processing plants, floating and shore-based, individual and by product type, involved in processing the harvested fish described in paragraph (c)(1) of this section;

(7) Estimates of the amount of fish harvested by recreational fishermen from the FMU;

(8) Estimates of the numbers of recreational fishermen who harvested fish from the FMU;

(9) Estimates of the number of charter vessels and party boats involved in the recreational fishery; and

(10) The estimated value of the recreational fishery for (or in) the FMU.

(d) Each SAFE report may contain additional economic, social, ecological, and other information pertinent to the success of management or the achievement of objectives of each FMP. Examples are:

(1) Enforcement actions taken and penalties assessed and collected over the most recent three years under an implemented FMP;

(2) Significant changes (if any) in State regulations pertinent to the FMU and their known or anticipated effects on stocks in the FMU;

(3) Significant changes (if any) in related fisheries which may affect the fishing effort for (or in) the FMU; and

(4) Potential conservation and management problems, their possible causes and solutions.

§ 605.14 Planning.

(a) *General.* Councils must establish procedures for identifying, on a continuing basis, fishery management issues and needs. The procedures established must ensure consideration of, and responsiveness to, the SAFE, economic and social impact analyses, enforcement experience, public perceptions and proposals, management priorities and long-term management goals and objectives. In its planning process, the Councils should define the FMU, determine the need for management, identify data and information needs, examine the range of issues to be addressed, propose management objectives, and schedule future actions.

(b) *Data Collection Program (DCP).* (1) The Magnuson Act authorizes collection of information and data which would be beneficial in determining whether an FMP is needed for a fishery or in preparing an FMP. Councils may request that the Secretary implement a

DCP for a fishery which would provide the types of information and data specified by the Councils. If the need for data is justified for conservation and management and approved by OMB under the Paperwork Reduction Act, the Secretary will approve such a DCP and issue proposed regulations to implement the program within 60 days and establish an estimated date of availability of the data. If the Secretary determines the need for a DCP is not justified, the Council must be informed in writing of the reason(s) for the determination within a reasonable period of time.

(2) NOAA is authorized under the Magnuson Act and other statutes to collect proprietary or confidential commercial or financial information and provide nonconfidential aggregations of such data to fulfill a Council's request. Information and data that would disclose proprietary or confidential commercial or financial information regarding individual fishing operators or fish processing operations would not be provided to the Council except as provided in § 601.27 and Part 603.

§ 605.15 Fishery management objectives.

Each FMP and amendment, whether prepared by a Council or by the Secretary, should identify what the FMP is designed to achieve, i.e., the management objectives to be attained in regulating the fishery under consideration. (See § 602.10, national standard guidelines, which sets out the role of objectives in the development and review process.)

§ 605.16 Establishment of management measures.

(a) The Council develops management measures to achieve optimum yield (OY) and the management objectives of the Council. The Council must propose management measures that are consistent with the national standards, other sections of the Magnuson Act, and other applicable law. The Council must prepare draft regulations that implement the management measures for submission to the Secretary with the FMP or amendment. Supporting documents required by other applicable law (see Part 604) must accompany the Council submission. Procedural detail may be found in the NMFS *Operational Guidelines*.

(b) Prior to the Council's adoption of the management measures:

(1) The Council must prepare a regulatory analysis of the economic and social effects of alternate management measures and their effectiveness in achieving the objectives in the FMP. The analysis must discuss the need for Federal action, and the benefits and costs of each alternative, and the effects on small entities and fishery-dependent communities. The analysis must include a conclusion concerning the expected net economic and social benefits to be achieved by each alternative management measure or system. To the extent such net benefits cannot be quantitative, qualitative estimates must be provided.

(2) The SSC must advise the Council on the adequacy of all support analyses and whether they are based on the best scientific information available, and on the efficacy of proposed management measures.

(3) NOAA and the Coast Guard, upon request of a Council, must provide written comments pertaining to the feasibility and cost of alternatives relative to enforcement and on vessel safety implications of the management measures.

(4) The Council may solicit comment from the AP, and any other interested group or individual concerning the effects and probable effectiveness of the proposed alternatives.

Subpart C—Administration

§ 605.21 Council Statement of Organization, Practices, and Procedures (SOPP).

Council SOPPs required under § 601.22 must, at a minimum, implement the standards outlined below in this subpart. As appropriate, these sections may be incorporated by reference. Councils should also include in their SOPPs implementation of § 601.27 on protection of confidentiality of statistics. In addition, they may wish to include selected regulatory sections from Parts 601 and 604, as circumstances warrant.

§ 605.22 SOPP checklist.

The following is an outline/checklist of the sections in Subpart C for use in developing each Council's SOPP:

605.23 Council organization

(a) Officers and terms of office
(b) Designees
(c) Designation of Regional Directors
(d) Advisory groups
(e) Working groups
(f) Committees

605.24 Council meetings and hearings

(a) Meetings
  (1) General
  (2) Notice
  (3) Conduct
  (4) Record
  (5) Closed meetings
  (6) Frequency and duration
  (7) Location
(b) Hearings
  (1) General
  (2) Notice
  (3) Conduct
  (4) Record

605.25 Employment practices

(a) Staffing
(b) Experts/consultants
(c) Details
(d) Personnel actions
(e) Salary/wage
(f) Recruitment
(g) Leave
(h) Employee benefits
(i) Travel reimbursement
(j) Foreign travel

605.26 Financial management

(a) Cooperative agreements
(b) Procurement
(c) Property management
(d) Space management
(e) Accounting system
(f) Audits
(g) Financial reports

605.27 Recordkeeping

(a) Administrative records for FMPs
(b) Disposition of records
(c) Permanent records
(d) Privacy Act
(e) Freedom of Information Act

§ 605.23 Council organization.

(a) *Officers and terms of office.* The Chair must be elected from among the voting members by a majority vote of the voting members present and voting. The term of office for the Chair may not exceed one year; however, the Chair may be eligible for re-election as set forth in the Council's SOPP. The Council may establish other officers as deemed necessary and set their terms of office.

(b) *Designees.* (1) The Magnuson Act authorizes only the principal State officials, the Regional Directors, and the nonvoting members to designate individuals to attend Council meetings in their absence. The Chair of the Council must be notified in writing, in advance of any meeting at which a designee will initially represent the Council member, the name, address, and position of the individual designated. A designee may not name another designee. However, such officials may submit to the Chair, in advance, a list of several individuals who may act as designee, provided that the list designates who would serve if more than one designee is in attendance.

(2) Reimbursement of travel expenses to any meeting must be limited to the member, or, in the case of the absence of the member, one designee—in any case, one person.

(c) *Designation of Regional Directors.* The Regional Directors serve as voting members on the Councils as follows:

Council	*Regional Director*
New England	Northeast Region
Mid-Atlantic	Northeast Region
South Atlantic	Southeast Region
Caribbean	Southeast Region
Gulf of Mexico	Southeast Region
Pacific	Northwest/Southwest Region*
North Pacific	Alaska Region
Western Pacific	Southwest Region

*The Southwest Regional Director is the NMFS spokesman on the Council and votes on fishery matters primarily or exclusively off California. The Northwest Regional Director is the spokesman and votes on fishery matters primarily or exclusively off Oregon and Washington.

(d) *Advisory groups.* Each Council must establish a Scientific and Statistical Committee (SSC) and may establish such other Advisory Panels (APs) as necessary or appropriate to assist it in carrying out its functions. Size is discretionary within the resources budgeted to the particular Council. Each Council must specify procedures in its SOPP for continuing involvement of its advisory groups in the development or amendment of FMPs. Procedures for appointing members of these groups should also be specified in the SOPPs.

(1) *Scientific and Statistical Committee (SSC).* The SSC provides expert scientific and technical advice to the Council on the development of fishery management objectives and strategies, the scientific information supporting preparation of FMPs, the appropriateness of the ABC and OY levels, the adequacy of the regulatory analysis, and the effectiveness of FMPs once in operation. In providing this advice, the SSC assists the Council in identifying the need for research and data collection and the scientific resources available, and in establishing criteria for framework actions. Membership must be multidisciplinary, and should include biological and social scientists from the Federal and State governments, and private scientific community who are knowledgeable about the fisheries to be managed.

(2) *Advisory Panel (AP).* The AP provides pragmatic advice from individuals most affected by, or interested in, Council matters of fishery management. A balanced representation should be maintained of those who are either actually engaged in harvesting, processing, marketing, or consuming fish, or knowledgeable and interested in the conservation and management of the fisheries within the Council's jurisdiction. With respect to each FMP or amendment under consideration by the Council, the AP should provide advice concerning the recommended OY, the management measures and allocations under consideration, the supporting documentation to any regulatory action, management objectives, and any other subject, as required by the Council.

(e) *Working groups.* Fishery management planning and development of FMPs may be performed by various types of working groups, under the direction of the Council. For example, the Council may establish a Plan Team to assess the need for management, assemble information, conduct and evaluate analyses, evaluate public/industry proposals and comments, and estimate the costs of plan development, implementation, and monitoring. In addition, Councils may use ad hoc groups to address resource user conflicts or other issues.

(f) *Committees.* The Council may appoint standing and ad hoc committees from among the voting and nonvoting members as it deems necessary for the conduct of Council business.

§ 605.24 Council meetings and hearings.

In fulfilling the Council's responsibilities and functions, the Council members may meet in plenary session, in working groups, or individually to hear statements in order to clarify issues, gather information, or make decisions regarding material before them. To provide for review and decision by the Secretary, recommendations of each of these groups must be documented and available. The documentation must include, at a minimum, a statement of the problem, recommendations for corrective action, likely impact on the affected resource, and likely impact on affected user groups.

(a) *Meetings*—(1) *General.* The Councils meet in plenary session at the call of the Chair or upon request of a majority of the voting members. Advisory groups may meet with the approval of the Chair. Emergency meetings may be held at the call of the Chair or equivalent presiding officer.

(2) *Notice.* With respect to the conduct of business at meetings of a Council, and of the scientific and statistical committee and advisory panels of a Council, timely public notice of each regular meeting and each emergency meeting, including the time, place, and agenda of the meeting, must be published in local newspapers in the major fishing ports of the Council's region (and in other major fishing ports having a direct interest in the affected fishery) and such notice may be given by such other means as will result in wide publicity. Timely notice of each regular meeting must also be published in the **Federal Register**.

(3) *Conduct of meetings.* (i) All meetings of the Council advisory and working groups must be open, unless closed in accordance with paragraph (a)(5) of this section. Interested persons will be permitted to present oral or written statements regarding the matters on the agenda at regular meetings of the Council, within reasonable limits established by the Chair. A vote is required for Council approval or amendment of a fishery management plan (including any proposed regulations), a Council finding that an emergency exists involving any fishery, or Council comments to the Secretary on foreign fishing applications or fishery management plans developed by the Secretary.

(ii) A majority of the voting members of any Council constitutes a quorum for Council meetings, but one or more such members designated by the Council may hold hearings.

(iii) Decisions of any Council are by majority vote of the voting members present and voting (except for proposed removal of Council members, see § 601.36). Voting by proxy is not permitted. An abstention does not affect the unanimity of a vote.

(iv) Voting members of the Council who disagree with the majority on any issue to be submitted to the Secretary, including principal State officials raising federalism issues, may submit a written statement of their reasons for dissent. If any Council member elects to file a minority report, it must be submitted at the same time as that of the majority.

(4) *Record.* (i) Minutes of each meeting must be kept and must contain a record of the persons present, an accurate description of matters discussed and conclusions reached, and copies of all statements filed.

(ii) Subject to the procedures established by the Council under § 601.27, and the regulations prescribed by the Secretary under Part 603 relating to confidentiality, the administrative record (including minutes required under paragraph (a)(4)(i) of this section) of each meeting, and records or other documents which were made available to or prepared for or by the Council, SSC, or APs incident to the meeting, must be available for public inspection and copying at a single location in the offices of the Council.

(5) *Closed meetings.* (i) Each Council, SSC, and AP:

(A) Must close any meeting, or portion thereof, that concerns matters or

information that bears a national security classification; and

(B) May close any meeting, or portion thereof, that concerns matters or information that pertains to unclassified national security matters, employment matters, or briefings on litigation in which the Council is interested.

(ii) Closed meetings must be announced in the news media.

(6) *Frequency.* Each Council must meet in plenary session at least once every six months. Council advisory groups may meet as frequently as necessary, with the approval of the Council Chair.

(7) *Location.* (i) Each Council must conduct all meetings within its geographic area of concern. In the particular case of the North Pacific Council, "geographical area of concern" means within the State of Alaska. When two or more Councils have been designated by the Secretary to prepare an FMP jointly, Councils so designated may meet jointly within any of their constituent States for the purpose of developing or amending such a plan or discussing issues of mutual concern.

(ii) The Council meeting place should have a capacity large enough to accommodate the anticipated public attendance and be accessible to those interested in attending, including consideration of the cost of transportation and lodging.

(b) *Hearings*—(1) *General.* The Magnuson Act directs the Councils to hold public hearings, at appropriate times and in appropriate locations in the geographical area concerned, to provide the opportunity for all interested persons to be heard in the development of FMPs and amendments, and with respect to the administration and implementation of the Magnuson Act. The term "geographical area of concern", for purposes of holding hearings, may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area.

(2) *Notice.* Hearings must follow the same procedures for announcement as for Council and advisory group meetings. Timely public notice also should be given to the local media where the hearing is to take place. Publicity should be sufficient in time, substance, and area coverage to assure that all interested parties are aware of the opportunity to make their views known.

(3) *Conduct of hearings.* When it is determined that a hearing is appropriate, the Chair of the Council must designate at least one voting member of the Council to officiate. All points of view must be given a fair chance to be heard.

(4) *Record.* An accurate and timely report of the participants and their views must be provided in writing to the Council and maintained as a part of the Council's official records.

§ 605.25 Employment practices.

The following sets forth the responsibilities of the Councils with regard to personnel matters and establishes personnel-related standards. Council members (except for Federal government officials) and staff are not Federal employees subject to Office of Personnel Management (OPM) regulations.

(a) *Staffing.* Each Council may appoint and assign duties to an Executive Director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of Council functions consistent with budgetary limitations. The Executive Director is responsible to the Council, and the staff is responsible to the Executive Director. Each position must be justified during the budget process described in OMB Circular A-110, or prior to filling a new position established during the course of the cooperative agreement year. Descriptions of the work to be performed must be submitted.

(1) Council staff positions must be filled solely on the basis of merit, fitness, competence, and qualifications. Employment actions must be free from discrimination based on race, religion, color, national origin, sex, age, or physical handicap.

(2) No employee of the Council may be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Magnuson Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or any political party in any national, State, county, or municipal election, or on account of his or her political affiliation.

(3) Council members and staff generally have the same protection from individual tort liability as Federal employees or official actions, and are protected by the Federal workmen's compensation statute, by the minimum wage/maximum hour provisions of the Fair Labor Standards Act (FLSA), and by the rights of access and confidentiality provisions of the Privacy Act (PA).

(4) Council staff are eligible also for unemployment compensation in the same manner as Federal employees.

(b) *Experts and consultants.* As long as funding is available in its budget, each Council may contract with experts and consultants as needed to provide technical assistance not available from NOAA. This includes legal assistance in clarifying issues, but Councils must contact NOAA General Counsel before seeking outside legal advice. Such experts and consultants may not provide services on a continuing basis.

(c) *Details of Government employees.* All Federal agencies are authorized by section 302(f)(2) of the Magnuson Act, 16 U.S.C. 1852(f)(6), to detail personnel to the Council on a reimbursable basis to assist the Council in the performance of its functions. Nonreimbursable details are not precluded. Council requests to the heads of such agencies must contain the purpose of the detail, length of time, compensation to be paid, if any, and the stipulation that the Assistant Administrator be consulted prior to granting the request. Copies of this correspondence will be transmitted to the Assistant Administrator through the servicing Regional Office. Federal employees so detailed retain all benefits, rights, and status as they are entitled to in their regular employment. The Councils may negotiate arrangements with State or local governments to utilize employees of those governments. Assistance in arranging these details may be obtained through the servicing Regional Office.

(d) *Personnel actions.* Subject to these instructions, and within budgetary limits, the Councils may establish positions, recruit, hire, compensate and dismiss personnel. Dismissal will be made for misconduct, unsatisfactory performance, and/or lack of funds, with reasonable notice to the employee.

(e) *Salary and wage administration.* (1) In setting rates of pay for Council staff, the principle of equal pay for equal work must be followed. Variations in basic rates of pay should be in proportion to substantial differences in the difficulty and responsibilities of the work performed.

(2) A cost of living allowance may be applied to the salaries of Council members and staff whose post of duty is in one of the following areas: Alaska, Hawaii, Guam, Virgin Islands, the Northern Mariana Islands, and Puerto Rico. Members from American Samoa will receive post differential. The rate of cost of living allowance may not exceed that paid by the Federal Government in the same area. The current rates may be obtained from the applicable NOAA field unit.

(3) The duties of any new position must be contained in a brief description

to be submitted to the Regional Office assigned to a Council prior to the submission of a budget in which the salary of that position is requested. The Council will be provided a salary range appropriate to the position and a determination of the applicability of the Fair Labor Standards Act. The Council then may fill the position at any salary level within that range; the policy of hiring at the beginning rate should be followed except in unusual cases when recruitment of an exceptionally qualified employee is hampered thereby. The annual pay for any staff position may not exceed the current rate for the top step of grade 15 of the Federal General Schedule at any time.

(f) *Recruitment.* All personnel vacancies should be filled on a competitive basis, unless unusual circumstances clearly dictate otherwise. For this purpose, the Council may avail itself of the vacancy advertising system operated by NOAA through the servicing Regional Office or any other recruitment tool, including newspapers and local employment agencies.

(g) *Leave.* Council employees should be granted paid leave for holidays, vacations or exigencies, sickness, and civil duties (e.g., jury duty, military reserve obligations) as determined by the Council. Councils should inform employees that leave is not transferable to or from Federal agencies. Leave is subject to the following limitations:

(1) *Annual leave.* Full-time Council employees may accrue annual leave at rates not to exceed those for Federal employees. Part-time employees accrue leave at the same rate, per hours worked.

(i)(A) Up to three years of service—maximum of 2 hours leave per 40 hours (13 days per year);

(B) Three to 15 years—maximum of 3 hours per 40 hours (20 days per year); and

(C) Over 15 years: maximum of 4 hours per 40 hours (26 days per year).

(ii) If the Council so desires, it may credit prior Federal, State, or local government service for the purpose of determining leave accrual of individual employees. Application of such a policy must be uniform and public.

(iii) Employees may carry over up to 240 hours (30 days) unused annual leave from one calendar year to the next. Amounts remaining above 240 hours will be forfeited. Employees who were authorized to carry over more than 240 hours in accordance with Council SOPPs prior to the effective date of these guidelines may continue under such policy. Under certain conditions, forfeited annual leave may be restored if it was properly scheduled for use and circumstances beyond the employee's control caused the forfeiture. Approval for this restoration must be obtained from the Council Chair or his/her designee, who will refer to the NOAA Personnel Regulations and other source documents for guidance. Lump sum reimbursements not to exceed 240 hours carryover plus current year earnings of unused leave are authorized upon employee separation. (Councils should neither budget nor account separately for anticipated or accrued leave costs payable upon employee separation. Should such costs arise and exceed Council funding availability, NOAA will defray these costs in total.)

(2) *Sick leave.* (i) Full-time Council employees may accrue sick leave at the rate of two hours per week (13 days per year). Part-time employees may accrue at a percentage of the hours worked compared to 40 hours. A 20-hour-a-week employee would accrue half the leave accrued by a 40-hour-a-week employee. Accumulation is without limits. Lump sum payments upon separation are not authorized. However, unused sick leave may be credited, upon an employee's retirement, as additional time worked.

(ii) In meritorious cases, Councils may advance up to one year's earnings of sick or annual leave when it is reasonably expected that the advanced leave will be repaid by the employee. This must be approved by the Council Chair or designee (designation must be in writing).

(h) *Employee benefits.* Employee benefits are identified in Councils' SOPP, a copy of which should be provided to each employee. The Council should provide its employees the opportunity to participate in group medical insurance, life insurance, and retirement plans, and pay a reasonable proportion of the cost of such plans. Total employee benefits may not exceed 20 percent (exclusive of FICA) of employees' gross salary, without NOAA approval.

(1) *Medical insurance.* Councils may provide group medical and dental insurance to their employees either through a commercial underwriter or through a State or local government program, within the total percentage limitation previously stated. Councils are not authorized to increase employee salaries in lieu of a medical or dental insurance plan.

(2) *Life insurance.* Councils may provide group life insurance for employees within the total percentage limitation previously stated. An increase in salary in lieu of insurance coverage is not authorized.

(i) *Travel Reimbursement*—(1) *General.*

(i) Each Council must include travel reimbursement procedures in its SOPP. Current per diem and actual subsistence rates contained in the NOAA Travel Handbook apply.

(ii) Actual expenses include transportation by air coach, rail coach, bus or privately owned vehicle (automobile or private plane reimbursed on a per mile basis); room and meals within a reasonable limit established by the NOAA Travel Handbook; and incidental expenses such as taxi fares, parking, and telephone calls on official business.

(iii) Coach air transportation must be utilized when available. Travel via first class air must be justified on the reimbursement voucher and approved by the Council Chair or his/her authorized representative. Privately owned vehicles (POVs) may be authorized when other modes of transportation are either unavailable or inconvenient. When a POV is authorized for the convenience of the traveler, the reimbursed costs must not exceed the costs of coach air fare. Accommodations equivalent to other-than-first-class should be utilized in the unlikely event that water vessel transportation is required. When substantial savings can be realized by utilizing rail travel, this mode of transportation should be considered when available and adequate.

(2) *Council, AP, SSC Members.* Section 302 (d) and (f) of the Magnuson Act provide that the voting members of each Council, the Executive Director of the Marine Fisheries Commission on each Council, the additional non-voting member of the Pacific Council, and members of advisory groups will be reimbursed for actual expenses incurred in the performance of Council duties. They are not bound by the separate per diem limits for meals and lodging as set forth in the GSA Rules. They are subject, however, to the total reimbursement limits established by the Handbook for actual expenses, and they must itemize their actual expenses up to the specified limit each day. Lodging receipts are required. The rates are included in the GSA Rules. Federal employees serving in the above capacities are subject to the reimbursement rules of their agencies.

(3) *Council staff, members of plan teams, and others.* Members of the Council staff and plan teams, invited experts, consultants, or others specifically invited, unlike those described in paragraph (i)(2) of this section, must adhere to the per diem limits or actual expense requirements set forth in the GSA Rules.

(4) *Non-NOAA team members.* Non-NOAA team members may be reimbursed for travel expenses but receive no other compensation from the Council.

(j) *Foreign travel.* (1) Foreign travel must be approved, in advance, by the Assistant Administrator for Fisheries or designee and by the Grants Officer. Requests for foreign travel approval should be submitted, in writing, at least 15 days in advance to the Assistant Administrator, through the NMFS Office of Management and Budget and the Grants Officer. Routine across-the-border travel to Mexico and Canada is exempt.

(2) Each Council should specify in its SOPP any delegation of authority to approve routine across-the-border travel which has been granted to it by NOAA.

(3) Council Chairmen or their authorized representatives may approve routine across-the-border travel to Canada or Mexico for Council members and employees within specified Federal rates.

(4) Domestic invitational travel for non-Council personnel may be approved by the Council Chairman or his/her authorized representative. Foreign invitational travel must be approved as described in paragraph (j)(1) of this section. The per diem limits or actual expense requirements described above also are applicable to non-Council personnel traveling at Council expense. Payment for NOAA personnel from Council funds is not authorized.

§ 601.26 Financial management.

The Councils' administrative operations are governed by OMB Circular A–110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations) and OMB Circular A–122 (Cost Principles for Non-Profit Organizations). A–110 prescribes standards for financial management systems, procurement, property management, financial reporting, cash depositories, and grant close-out procedures. Councils are required to comply strictly with the provisions of the Circulars, DOC regulations and directives, NOAA directives, and terms and conditions of the awards.

(a) *Cooperative agreements.* Councils receive funds through cooperative agreements for two basic types of expenditures: Administrative (or operations) funds to cover general operating expenses, such as salaries, office space, utilities, travel, State liaison activities, etc., and programmatic (or contract) funds primarily designed to fund contracts generated by the Councils for development of FMPs (including amendments) or FMP-oriented information.

(1) *Administrative.* The funding for the administrative and technical support of Council operations is included in the budget of the Department of Commerce and, through that agency, in the budgets of NOAA and NMFS. The funding requirements for the Councils are subject to regular budgetary review procedures. Annual grants and cooperative agreements will provide such Federal funds as the Secretary determines are necessary to the performance of the functions of the Councils and consistent with budgetary limitations. Requirements for periodic reports for purposes of NOAA budgetary control are described in individual grants and cooperative agreements issued to the Councils.

(i) *Application for cooperative agreement.* (A) The Council must submit a formal application (Standard Form 424, Federal Assistance Short Form) to the appropriate Regional Director. This application includes a Budget Data Form, a Program Narrative Statement supporting the application, and a Statement of General Assurances. As backup to the Budget Data Form, each Council must prepare a Budget Summary Worksheet for three fiscal/calendar years. The amounts reflected in lines A1 through A8 of the Worksheet are then transferred to the appropriate categories of the Budget Data Form. On the budget submission, Councils should list all contemplated equipment purchases over $500 each; approval of the application will convey approval of these purchases. The Program Narrative Statement should describe in appropriate detail the purpose for which funds are sought, e.g., operational expenses, FMP-oriented contracts, State liaison support.

(B) Upon receiving a recommendation from the Regional Director (RD), the Assistant Administrator will review the application and transmit the application through the RD to the appropriate Grants Officer for processing. If the application is disapproved by the Assistant Administrator, the RD will be contacted and supplied with the reasons for disapproval and the criteria for resubmission.

(ii) *Accounting.* A Cash Receipts and Disbursement Journal with a monthly Summary of Accounts is required as a minimum bookkeeping system. In addition, a Statement of Income and Expenses for the Council must be prepared monthly for the Council membership. Each cash disbursement must be approved by the Council Executive Director. All checks for amounts more than $5,000 require two signatures—the Council Executive Director and another person designated by the Council. The approval authority must be included in any SOPP published after the effective date of this regulation. When budget estimates are submitted to the Assistant Administrator, the uniform account classification titles should be used.

(iii) *Advance of funds.* A Letter of Credit will be established for each cooperative agreement. Drawdowns from the Treasury will be made at the commercial bank through electronic fund transfer from Treasury. The Council shall initiate each drawdown at approximately the same time that checks are issued by the Council in payment of Council liabilities. Drawdowns should not be made more frequently than daily or in amounts less than $10,000. These requirements are under the Department of the Treasury Circular 1075, "Withdrawal of Cash from the Treasury for Advances Under Federal Grants and Other Programs" (31 CFR Part 205).

(2) *Programmatic*—(i) *Nature of request.* Councils may enter into cooperative agreements with Federal agencies, State, and private institutions on matters of mutual interest which further the objectives of the Magnuson Act. Approval from the Secretary of Commerce must be obtained prior to entering into such arrangements, and each agreement must specify the nature and extent of Council participation. The Councils are not authorized to accept gifts or contributions directly. All such donations must be directed to the NOAA Administrator in accordance with Agency regulations, which are available from NMFS Regional Offices upon request.

(ii) *Criteria.* NOAA has established the following criteria to guide each year's decisions on programmatic funding:

(A) Proposed projects must be directly related to the formulation of an FMP, amendment, or emergency action (including data collection necessary to determine whether an FMP should be formulated); necessary to evaluate an FMP already in place; or, necessary to obtain information for use in framework FMP management actions.

(B) Proposed projects must be short-term, preferably one year or less but generally not longer than two years.

(C) Proposed projects must avoid duplication of effort and operate as cost efficiently as possible in order to maximize benefits for Federal expenditures. When a Council has identified data needs for a particular fishery, available resources from

NOAA, the States, Office of Sea Grant, academic institutions, and other established sources of information should be utilized to avoid duplication of effort. If certain biological, ecological, economic, or social data is needed on a high-priority basis which cannot readily be supplied free-of-charge by NMFS or other institutions, the Councils may be authorized to contract for the information collection and analysis. The SSC of each Council should assist in identifying immediate and longer-range research and data needs.

(iii) *Procedure.* (A) Requests for programmatic funding may be submitted at the same time as the Council's administrative budget, or at other times as requested by the Assistant Administrator. Documentation should include a cover letter explaining the need for the project, how it contributes to an FMP (proposed, developing or existing), and how it meets criteria outlined in this section. An additional factor that is considered during NOAA review is documentation jointly submitted by the Regional Director and Chief Scientist stating that needed information is not available from NOAA or other sources and establishing regional priorities among the various Council requests.

(B) Competing project proposals which meet the above criteria may be funded based on an evaluation of urgency of problem to be addressed, impact of failing to fund, impact of delay in funding, and importance and size of fishery.

(C) Programmatic contract services always must be described in the context of overall Council plans in a particular programmatic area. The relationship of individual contracts to past and projected goals must be reflected in all Council applications for contract funds.

(b) *Procurement.* Draft contracts or solicitations relating to the development or monitoring of FMPs must be submitted to the RD. Proposed sole source procurements over $5,000 and contracts for automated data processing (ADP) equipment purchases and leases must also be submitted to the RD prior to award. Solicitations will not be released, nor contracts awarded, until all substantive issues noted by the RD have been satisfactorily resolved. Proposed sole source contracts over $10,000 must be approved in writing by the Grants Officer. Final copies of all contracts awarded will be filed with the appropriate Grants Officer. The cost and financial management principles outlined in OMB Circulars A–122 and A–110 are to be applied fully to all Council procurement actions.

(1) To avoid duplication of work, efforts must be made to use existing support sources (Federal, State, other Councils, etc.) before commercial sources are sought.

(2) Competition must be held for all commercial purchases over $5,000 unless the unique nature of the procurement, unforeseen time constraints, and/or substantiated overall savings (administrative plus contractual) clearly dictate otherwise. All sole source procurements above $5,000 with individuals and commercial vendors will be documented and reviewed by the RD as described above. Such purchases over $10,000 must be approved by the Grants Officer. Internal Council evaluations may be made on unusual and large procurements to ensure their legality, economy, and viability, or the Council may delegate such authorization to its Executive Director or Chair.

(3) Efforts must be made to inform minority firms of planned Council procurements. The *Commerce Business Daily* (CBD) should be considered by each Council as a means of publicizing contemplated contracts.

(4) The purchase or lease of ADP equipment by Councils and its subcontractors requires prior approval by the RD. Such approval will be made only after a cost-benefit analysis (system life cost, lease vs. purchase, compatibility, etc.) by the Council demonstrates the economy of the proposed action.

(5) Councils are authorized to purchase supplies and services from GSA directly. Individual accounts have been set up for each Council, and information is available through Regional Offices.

(c) *Property management.* A listing of Federally-owned (Council) property must be submitted to the Grants Officer annually. Theft of Council property should be reported promptly to local law enforcement personnel, including the FBI, the Grants Officer, and to the Regional Office. Property management procedures must ensure adequate control and protection of Council property at all times. Such procedures are included in Council's SOPP, and must include the following as a minimum:

(1) A perpetual inventory system for all nonexpendable items, e.g., office equipment, furniture, etc.;

(2) Procedures for marking such items as Council property;

(3) Provision for safeguarding sensitive items such as cameras and biological equipment. Insurance should not be obtained.

(4) Procedures to be followed in disposing of surplus items;

(5) Listing of all personnel, including consultants if appropriate, authorized to have access to Council property.

(d) *Space management.* In all cases, reason should be exercised regarding the amount and cost of space acquired. When acquiring office space, Councils may avail themselves of the following:

(1) General Services Administration leasing assistance;

(2) Regional Office assistance;

(3) Direct negotiations within the guidelines stated above.

(e) *Accounting system.* Councils must maintain a document-oriented, obligation-accounting system (with accruals, as necessary, for budget projection purposes) rather than a cash-accounting system. Actual journals and ledgers must be maintained either manually or on an automated system; in either case, however, all obligations must be clearly documented and organized in order to provide quick access and verification by professional auditors. The actual composition (chart of accounts) of the system may vary somewhat from Council to Council. As a minimum, however, the system must provide fiscal control over expenditures in line with those object classes depicted in the Council budget submission. This will allow not only timely submission of the periodic financial status reports, but it will also ensure close coordination between actual spending rates and budgeted amounts so that comparisons and changes can be made at any time. All financial records must be handled in accordance with OMB Circular A–110.

(f) *Audits.* An independent audit is required at least biennially by DOC auditors or an independent public accountant (IPA). All Councils are subject to audit by the Secretary and the General Accounting Office. The scope of the audit may include: conduct of financial operations; compliance with applicable laws and regulations; economy and efficiency of administrative procedures; and achievement of results.

(1) If an IPA is to perform the audit, the request for proposals and contract must comply with the Audit Guidelines.

(2) As part of the IPA's examination of Council records, it is requested that they comment on whether efforts have been made by the Council to include small, minority, and women-owned businesses as sources of supplies and services.

(3) In order to provide guidance or provide additional information to the auditors and the Councils on audit-related matters, it is suggested that the

following NOAA personnel be invited to participate in the audit exit conference:

(i) The Grants Officer;

(ii) The Assistant Administrator's staff and/or a representative of the Regional Office;

(g) *Financial reports.* Reports are required which summarize total expenditures made and Federal funds unexpended for each award, and the status of Federal cash received. The Report of Federal Cash Transactions (Form SF–272) is required from each Council quarterly and is due to the Grants Officer no later than 30 working days after the end of the quarter. A final report is required upon completion of the grant, to be submitted within 90 days after completion of the grant. The Financial Status Report (Form SF–269) is required from each Council quarterly and is due to the Grants Officer no later than 30 working days after the end of the quarter. A final report is required 90 days following completion of the grant. Guidance for the preparation of these reports and other financial reporting procedures is in Attachment G of OMB Circular A–110.

§ 605.27 Recordkeeping.

(a) *Administrative records for FMPs.* (1) Councils and NMFS Headquarters, Regions and Centers collectively are responsible for maintaining records pertaining to the development of FMPs and amendments within their geographic area of authority. In the event of litigation, compilation of an administrative record for a court case will be under the direction of the NOAA General Counsel.

(2) Categories of documents which generally constitute an administrative record include the following:

(i) Council meeting agendas;

(ii) Minutes of Council meetings;

(iii) Plan Team reports, if any;

(iv) SSC reports;

(v) AP reports;

(vi) Hearing reports;

(vii) Council reports/ recommendations;

(viii) Correspondence relating to the FMP;

(ix) Scoping comments;

(x) Work plan, if any;

(xi) Discussion papers, if any;

(xii) NEPA documents;

(xiii) Regulatory analyses

(xiv) PRA justification

(xv) Proposed regulations;

(xvi) Final regulations;

(xvii) Emergency regulations; and

(xviii) Notices of meetings (Council, SSC, AP, Team).

(b) *Disposition of records.* (1) The goal of an effective disposition program is annually to destroy at least enough unneeded records to equal the volume of records created, while preserving records having long-term or enduring value because of administrative, legal, scientific, or historical importance.

(2) Councils must consult with NOAA before destroying Council records. Financial records (including time and attendance records) should be handled according to the stipulations of OMB Circular A–110. Councils must send records associated with FMPs to the appropriate Region for disposition.

(3) All records and documents created or received by Council employees while in active duty status belong to the Federal Government. When employees leave the Council, they cannot take the original or file copies of records with them; to do so violates Federal law.

(c) *Permanent records.* The designation of a file as "permanent" means that the records are appropriate for offer to the National Archives when 15 years old, unless otherwise specified. Destruction of permanent records is not authorized. The following are examples of permanent files:

(1) *EIS files:* Documents relating EIS's or environmental assessments. Cut off at end of calendar year when created. Permanent retention; no approved disposition at this time.

(2) *Annual report files:* Input for the DOC Annual Reports and related correspondence. Cut off at end of calendar year when created; permanent.

(3) *Meeting files:* Including agendas, minutes, reports, studies and related correspondence. Cut off at end of calendar year; permanent.

(d) *Privacy Act (PA) records.* Each Council will maintain in its office, under appropriate safeguards in accordance with the PA, personnel files on employees, experts and consultants under contract, and advisory group members.

(1) *Maintenance.* A file for each Council member containing appointment papers, security reports, biographical data and other official papers will be centrally maintained in NOAA under security and safeguard conditions required of files subject to the PA. This file will be available to members to which it pertains on request, and to other members and government officials when a need to know the information in the performance of the requester's official duties is established.

(2) *Protection.* The PA provides the following protection for individuals, including Council employees, except as otherwise limited by law:

(i) An individual is permitted to determine what records pertaining to him/her are collected, maintained, used, or disseminated.

(ii) An individual is permitted to prevent records pertaining to him/her, which have been obtained for a particular purpose, from being used or made available for another purpose without his/her consent.

(iii) An individual is permitted to gain access to information in Federal records pertaining to him/her, to have a copy made of all or any portion of such records, and to correct or amend such records.

(iv) The collection, maintenance, use, or dissemination of any record of identifiable personal information must be in a manner which assures that such action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information.

(v) Exemption from the requirements of the PA are permitted only in those cases where there is an important public need for such exemption as has been determined by specific statutory authority.

(vi) Federal agencies are subject to civil suit for any damage which occurs as a result of willful or intentional action which violates any individual's rights under the PA.

(3) *Request for PA information.* Any time an individual is asked to provide information about himself/herself to be maintained in a PA record, the individual must be given a written statement for his/her retention which provides the following information:

(i) The authority (law or executive order) which authorizes the collection of the information, indicating whether the authority either imposes or authorizes any penalty for failing to answer; whether providing the information is mandatory or voluntary;

(ii) The principal purpose for which the information is to be used; and

(iii) Any other uses which may be made of the information. These uses must be limited to those published in the **Federal Register**, and the effect(s), if any, on the individual of not providing all or any of the requested information, both beneficial and adverse.

(4) *Disclosure of PA records.* The disclosure of PA records to the individual to whom they pertain, to a person accompanying the individual, to the parent of a minor, or to a legal guardian comprise a fundamental aspect of the Act. Otherwise, Councils may only disclose PA records under one of eleven situations outlined in NOAA Circular 75–82.

(5) *Disposition of PA records.* Councils must contact NOAA for guidance before disposing of PA

records. Examples of PA records with recommended timeframes for disposition are as follows:

(i) Membership files: Containing biographical data on members. Cut off when member leaves Committee; destroy five years later.

(ii) Time and attendance files: Retain for three years following the final financial report for each grant year in accordance with OMB Circular A–110.

(e) *Freedom of Information Act (FOIA).* All FOIA requests must be submitted in writing. The envelope and letter should be clearly marked "Freedom of Information Request."

(1) *Requests.* (i) FOIA requests should be time-and-date stamped upon receipt. Each request must be acknowledged within 10 working days and filled as expeditiously as possible. Time limits for processing FOIA requests start upon receipt of the request for information. In unusual circumstances, the 10-day time limit may be extended up to an additional 10 working days. Discretion should be used in invoking the 1- to 10-day extension provision. Any extension reduces availability by the same number of days of an extension that otherwise can be invoked, if partial or full denial should result in an appeal.

(ii) FOIA requests received by a Council should be coordinated promptly with the Regional Office. The Region will coordinate logging the FOIA request and obtain clearance from the NOAA General Counsel concerning initial determination for release or denial of information (under paragraph (c)(5)(ii) of this section.

(iii) FOIA requests will be controlled and documented in the Region by completion of Form CD–244. Councils may obtain copies of this three-part form from the NOAA Logistics Supply Center at Kansas City or from local GSA stores, and assist the Regional Office in completing the form as well as in assigning an official response date. Copies of the CD–244 should be distributed to the Regional Director (white copy) and the Council (yellow copy), and an information copy with the incoming request should be provided to the NMFS FOIA Officer.

(iv) Councils should recover allowable costs for locating and reproducing information released under the FOIA and forward these funds through the NOAA Freedom of Information Officer to the U.S. Treasury. Appropriate charges are outlined in the DOC Uniform Schedule of Fees.

(2) *Initial denials.* (i) The purpose of the FOIA is to make available to the public all information requested, with some exceptions in nine categories of information. Each Council may determine who may disclose unclassified information in its possession. However, only the Assistant Administrator has been delegated authority to make initial determinations on whether to deny information requested under the FOIA. This authority may not be redelegated. Regions must keep Councils informed.

(ii) Proposals to deny, or partially deny, a request for information should be coordinated with the appropriate Regional Attorney who will, in turn, coordinate with the DOC's Office of General Counsel, and with NOAA's Office of Public Affairs, and NOAA's FOIA Office. No initial denial may be issued until the concurrence of the Department's Office of General Counsel has been obtained.

(iii) After the coordination mentioned in paragraph (e)(2)(ii) of this section, the Assistant Administrator must send a letter to the requesting party denying the request for information. The denial letter should include the following:

(A) The specific exemption(s) which apply and why they apply.

(B) In the case of a partial denial, a statement of the specific manner in which a portion of a record is being provided after deletion of the portions which are determined to be exempt.

(C) A statement of the right to appeal to the DOC General Counsel within 30 days of the receipt of the denial.

(D) A statement that the appeal should include a copy of the original request, the initial denial, the requester's reasons why the records should be made available, and the reasons why the initial denial is believed to be in error.

(E) Copies of the letter of denial, along with the original FOIA request, should be sent to the DOC Office of General Counsel, the NOAA FOIA Officer, and the NMFS FOIA Officer.

[FR Doc. 88–12987 Filed 6–9–88; 8:45 am]

BILLING CODE 3510-22-M 94¶

Notices

Federal Register
Vol. 53, No. 112
Friday, June 10, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

[C-559-802 and C-549-802]

Postponement of Preliminary Countervailing Duty Determinations: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Singapore and Thailand

AGENCY: Import Administration, International Trade Administration; Commerce.

ACTION: Notice.

SUMMARY: Based upon the request of petitioner, the Torrington Company, the Department of Commerce (the Department) is postponing its preliminary determinations in the countervailing duty investigations of antifriction bearings (other than tapered roller bearings) and parts thereof from Singapore and Thailand. The preliminary determinations will be made on or before August 29, 1988.

EFFECTIVE DATE: June 10, 1988.

FOR FURTHER INFORMATION CONTACT: Gary Taverman or Eleanor Shea, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-0161 or 377-0184.

SUPPLEMENTARY INFORMATION: On April 20, 1988, the Department initiated countervailing duty investigations on antifriction bearings from Singapore and Thailand. In our notices of initiation we stated that we would issue our preliminary determinations on or before June 24, 1988 (53 FR 15084-15086, April 27, 1988).

On May 27, 1988, the petitioner filed a request that the preliminary determinations in these investigations be postponed for 65 days.

Section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), provides that a preliminary determination in a countervailing duty investigation may be postponed where the petitioner has made a timely request for such a postponement. Pursuant to this provision, and the timely request by petitioner in these investigations, the Department is postponing its preliminary determinations until no later than August 29, 1988.

This notice is published pursuant to section 703(c)(2) of the Act.

June 3, 1988.

Joseph A. Spetrini,
Acting Assistant for Import Administration.

[FR Doc. 88-13137 Filed 6-9-88; 8:45 am]
BILLING CODE 3510-DS-M

[C-614-503]

Lamb Meat From New Zealand; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration; Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On January 4, 1988, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on lamb meat from New Zealand. We have now completed that review and determine the total bounty or grant during the period June 25, 1985 through March 31, 1986 to be NZ$0.31/lb.

EFFECTIVE DATE: June 10, 1988.

FOR FURTHER INFORMATION CONTACT: Cynthia Sewell or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3337.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 47) the preliminary results of its administrative review of the countervailing duty order on lamb meat from New Zealand (50 FR 37708; September 17, 1985). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of lamb meat from New Zealand. Such merchandise is currently classifiable under item number 106.3000 of the Tariff Schedules of the United States Annotated and under item numbers 0204.10.00—0, 0204.22.20–0, 0204.23.20–0, 0204.30.00–0, 0204.42.20–2, and 0204.43.20—0 of the Harmonized System.

The review covers the period June 25, 1985 through March 31, 1986 and ten programs: (1) Export Market Development Taxation Incentive ("EMDTI"); (2) Export Performance Taxation Incentive; (3) Livestock Incentive Scheme; (4) Meat Producers Board Price Support Scheme ("MPBPS"); (5) Supplementary Minimum Prices/Lump Sum Scheme ("SMP/LS"); (6) Export Programme Grant Scheme; (7) Export Programme Suspensory Loan Scheme; (8) Export Suspensory Loan Scheme; (9) Regional Development Investigation Grants Scheme; and (10) Regional Development Suspensory Loan Scheme.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from the New Zealand Meat Producers Board ("the Board").

Comment 1: The Board contends that the Department's preliminary results, which propose a change from a cents-per-pound to an *ad valorem* assessment rate, are contrary to the duty structure set forth in the Tariff Schedules of the United States ("TSUS"). The Board argues that, because regular duties are assessed in cents-per-pound, Congressional intent suggests that countervailing duties for this product be assessed on a specific-rate basis (*i.e.*, any basis other than *ad valorem*). Further, the Board asserts that importers and exporters made pricing and marketing decisions on a cents-per-pound basis and that such decisions would be rendered hopelessly inaccurate by a change to an *ad valorem* assessment rate. Finally, the Board contends that the Department's method of calculating the amount of the bounty or grant from the MPBPS and the SMP/LS schemes overstated the benefit. Because the benefits from these programs are paid in cents-per-kilogram

of carcass weight rather than on the export value of lamb cuts, the Department's calculation of the countervailing duty should be on the same basis as that on which the benefit was bestowed.

Department's Position: Congressional direction concerning the method of collecting regular duties, as manifested in the TSUS, is unrelated to the assessment of countervailing duties. In determining the rate of countervailing duty to be assessed on any product, the Department calculates the amount of the benefit from each program and allocates each benefit over the basis on which it was received (*e.g.*, total sales, total exports, exports to the U.S.).

In our final determination, we considered the fact that the MPBPS and SMP/LS schemes provided benefits on the basis of cents-per-kilogram and determined that the collection of cash deposits of estimated countervailing duties on a specific-rate basis was more appropriate. When assessing countervailing duties, however, the Department concerns itself with countervailing the aggregate benefit received. Allocating that benefit in cents-per-pound, over the volume of exports to the United States, or on an *ad valorem* basis, as a percentage of the value of those exports, makes no difference in the total amount of the countervailing duties collected. For this reason, the Department proposed to change to an *ad valorem* assessment rate, which is consistent with the way countervailing duties are assessed in nearly all other countervailing duty proceedings. Further, with the termination of the MPBPS and SMP/LS schemes, there was no reason to continue collection of cash deposits of estimated countervailing duties on a specific-rate basis. Nonetheless, because importers and exporters made pricing and marketing decisions on a cents-per-pound basis we will assess countervailing duties for the review period in cents-per-pound.

Finally, we agree with the Board's claim that we overstated the benefits received from the MPBPS and SMP/LS schemes. Lamb meat exports to the United States are predominantly cuts, whereas a much larger percentage of New Zealand's total lamb meat exports are carcasses. Consequently, the average value per pound of exports to the United States is much higher than the average value per pound of total exports. Therefore, in our revised calculations, we took into account the fact that benefits from these programs were received on a carcass-weight basis and, by using the ratio of the weight (adjusted for waste) of U.S. sales to total export sales to all countries, we calculated the benefits attributable to lamb meat exports to the United States.

Based on our revision in the method of calculating the amount of benefit from the MPBPS and SMP/LS schemes and the change from our preliminary results to assessing countervailing duties on a specific-rate basis, we determine the total bounty or grant to be NZ$0.31/lb. during the review period. The rate of cash deposit of estimated countervailing duties remains unchanged from the preliminary results.

Comment 2: The Board contends that, when calculating the rate of cash deposit of estimated countervailing duties, the Department did not take into account the reduction in the benefit resulting from the continuing phase-out of the EMDTI program.

Department's Position: In calculating the rate of cash deposit of estimated countervailing duties, we considered changes that occurred prior to publication of our preliminary results. At verification we examined the New Zealand Lamb Company's 1985 and 1986 federal income tax returns. Based on a comparison of the tax credit rate and the normal corporate tax rate, we determined that the rate of the benefit from this program declined after the review period. We reduced the rate for cash deposits of estimated countervailing duties accordingly.

Final Results of Review

After considering all the comments received, we determine the total bounty or grant during the period June 25, 1985 through March 31, 1986 to be NZ$0.31/lb.

Section 707 of the Tariff Act provides that the difference between the deposit of an estimated countervailing duty and the final assessed duty under a countervailing duty order shall be disregarded to the extent that the estimated duty is less than the final assessed duty and refunded to the extent that the estimated duty is higher than the final assessed duty, for merchandise entered, or withdrawn from warehouse, for consumption before the date of publication of a countervailing duty order, which in this case was September 17, 1985 (50 FR 37708).

Therefore, the Department will instruct the Customs Service to assess countervailing duties of NZ$0.25/lb. on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after June 25, 1985 and before September 17, 1985 and to assess countervailing duties of NZ$0.31/lb. on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after September 17, 1985 and exported on or before March 31, 1986.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 4.55 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.10.

Joseph A. Spetrini,

Acting Assistant Secretary, Import Administration.

Date: June 3, 1988.

[FR Doc. 88-13138 Filed 6-9-88; 8:45 am]

BILLING CODE 3510-DS-M

University of Colorado 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: 88-115. Applicant: University of Colorado, Boulder, CO 80309-0440. Instrument: FT-IR Spectrometer System, Model IZM01. Manufacturer: BOMEM, Inc., Canada. Intended Use: See notice at 53 FR 15102, April 27, 1988. Reasons for This Decision: The foreign instrument provides an unapodized resolution of .026 cm^{-1}.

Docket Number: 88.129. Applicant: University of California, Los Alamos National Laboratory, Los Alamos, NM 87545. Instrument: Inductively Coupled Plasma-Mass Spectrometer, Model VG PlasmaQuad. Manufacturer: VG Elemental, Ltd., United Kingdom. Intended Use: See notice at 53 FR 15103, April 27, 1988. Reasons for This Decision: The foreign instrument provides detection of less than 0.1 ppb for elements greater than mass eighty (80).

Docket Number: 88-130. Applicant: Dartmouth College, Hanover, NH 03775.

Instrument: Thermal Ionisation Mass Spectrometer, Model VG SECTOR. Manufacturer: VG Instruments, United Kingdom. Intended Use: See notice at 53 FR 15103, April 27, 1988. Reasons for This Decision: The foreign instrument provides precise automated variable multi-collector thermal ionization of isotopic ratios on small samples (100 nanograms.) 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. 88-13136 Filed 6-9-88; 8:45 am]

BILLING CODE 3510-DS-M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on June 23, 1988, 9:30 a.m. at the Old Executive Office Building, Room 208, Washington, DC.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, and academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97-63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans.

Agenda items are as follows:

I. Call to Order.

II. Approval of the Minutes.

III. Congressional Update.

IV. Status Report on Visa Waiver Program.

V. International Airline Issues.

VI. Tourism and Canadian Free Trade Agreement.

VII. USTTA Initiatives: A. Marketing Update; B. Other USTTA Activities.

VIII. Other Business: A. Establish Next Meeting Date.

IX. Adjournment.

A very limited number of seats will be available to observers from the public and the press. To assure clearance for entry to the building, individuals intending to attend must notify the Committee Control Officer in advance. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Karen M. Cardran, Committee Control Officer, United States Travel and Tourism Administration, Room 1865, U.S. Department of Commerce, Washington, DC 20230 (telephone: 202-377-0140) will respond to public requests for information about the meeting.

Charles E. Cobb, Jr.,

Acting Under Secretary for Travel and Tourism, U.S. Department of Commerce.

[FR Doc. 88-1304 Filed 6-9-88; 8:45 am]

BILLING CODE 3510-11-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Singapore

June 7, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: June 14, 1988.

Authority: E. O. 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-6736. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: At the request of the Government of Singapore, the Government of the United States has agreed to increase the current designated consultation level for Category 606.

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). Also see 52 FR 49188, published on December 30, 1987.

The letter to the Commisisoner 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

June 7, 1988.

Commissioner of Customs, Department of the Treasury, Washingotn, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 24, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the period which began on January 1, 1988 and extends through December 31, 1988.

Effective on June 14, 1988, you are directed to amend to 400,000 pounds the current limit for man-made fiber textile products in Category 606.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-13061 Filed 6-9-88; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1988; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1988 services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: July 11, 1988.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: E. R. Alley, Jr. (703) 557–1145.

SUPPLEMENTARY INFORMATION: On February 12 and March 11, 1988, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (53 FR 4200 and 53 FR 7963) of proposed addition to Procurement List 1988, December 10, 1987 (52 FR 46926). After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the services listed.

c. The actions will result in authorizing small entities to provide the services procured by the Government.

Accordingly, the following services are hereby added to Procurement list 1988:

Cleaning of Magnetic Tapes, Robins Air Force Base, Georgia
Janitorial/Custodial, Airport Building, 9120 NE 47th, Portland, Oregon
Ross Complex, 5411 NE Highway 99, Vancouver, Washington

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 88–13133 Filed 6–9–88; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1988; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1988 a commodity and a military resale commodity to be produced and a service to be provided by workshops for the blind and other severely handicapped.

Comments Must Be Received on or Before: July 11, 1988.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: E. R. Alley, Jr. (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity, military resale commodity, and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity, military resale commodity, and service to Procurement List 1988, December 10, 1987 (52 FR 46926).

Commodity: Rod, Ground, 5975–00–878–3791.

Military Resale Item No. and Name: No. 650 Dryer, Sweater.

Service: Janitorial/Custodial, U.S. Courthouse and Customhouse, 1716 Spielbusch Avenue, Toledo, Ohio.

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 88–13134 Filed 6–9–88; 8:45 am]

BILLING CODE 6820–33–M

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of information collection.

SUMMARY: The Commodity Futures Trading Commission has submitted information collection 3038–0001, Futures Commission Merchant Report on Dealer Options, to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. The information collected pursuant to this rule provides a basis for the Commission to monitor the activities of Futures Commission Merchants which are qualified to vend dealer options.

ADDRESS: Persons wishing to comment on this information collection should contact Robert Neal, Office of Management and Budget, Room 3228, NEOB, Washington DC 20502, (202) 395–7340. Copies of the submission are available from Joseph G. Salazar, Agency Clearance Officer, (202) 254–9735.

Title: Futures Commission Merchant Report on Dealer Options.

Control Number: 3038–0001.

Action: Extension.

Respondents: Businesses (excluding small busineses).

Estimated Annual Burden: 48.

Estimated Number of Respondents: 12.

Issued in Washington, DC, on June 7, 1988.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88–13128 Filed 6–9–88; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 6, 1988.

The USAF Scientific Advisory Board AD Hoc Committee on Aircraft Infrastructure—Subsystem and Component Reliability Improvement Research and Development Needs will meet for the second time on 27 June 1988, from 8:00 a.m. to 5:00 p.m., at Aeronautical Systems Division, Wright-Patterson AFB, OH, and on 28–29 June 1988 from 8:00 a.m. to 5:00 p.m., at Headquarters Air Force Logistics Command, Wright-Patterson AFB, OH.

The purpose of this meeting is to receive briefings and gather information on ASD and AFLC perception of the problem and their efforts to solve them. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88–13115 Filed 6–9–88; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10a(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: 28–29 June 1988.

Time: 0900–1700 hours, 28 June; 0900–1200 hours, 29 June.

Place: Orlando, Florida.

Agenda: The Army Science Board Ad Hoc Subgroup on Close Combat Training Strategy will be hosted by the office of the Project Management for Training Devices (PMTRADE) and consist of informal discussions with representatives of PMTRADE, Training and Performance Data Center (TPDC), the Naval Training Systems Center (NTSC), and the University of Central Florida. Subjects to be discussed will include simulation networking, embedded training, future endeavors in the area of training and simulation technology, C3I, and indirect fire simulation. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88-13104 Filed 6-9-88; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Record of Decision To Develop Five Hundred Units of United States Navy Family Housing at the Naval Weapons Station, Earle, New Jersey

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and the Counsel on Environmental Quality Regulations (40 CFR Part 1500), the United States Navy announces the decision to develop 500 units of military family housing to support the Naval Weapons Station (NWS), Early, New Jersey. Specific siting criteria are discussed in the Draft and Final Environmental Impact Statements (DEIS/FEIS) prepared for this project and are summarized below. While implementation of this proposed action will not completely satisfy the housing deficit anticipated for the Naval Weapons Station, it will make available a proportionally greater number of affordable units than are currently available within a reasonable commuting distance.

The proposed 500 units encompass two separate development projects, a 200 unit Military Construction "turn-key" project (referred to as the 200 unit MCON project) and a 300 unit development authorized pursuant to the Section 801 Housing Leasing program (referred to as the 300 unit Section 801 project). Both the 200 unit MCON project and the 300 unit Section 801 project will be constructed on government property at the Main Station site as discussed in the FEIS. In fact, this decision is to continue the construction of the 200 units which began in March 1986 pursuant to a Finding of No Significant Impact and subsequently halted pursuant to a court order on 25 March 1987. Included in this decision is the creation of approximately 10 acres of wetlands in mitigation for the 3.2 acres of wetlands inadvertently filled when the construction of the 200 unit MCON project commenced. The design for this wetland creation plan is set forth in the FEIS and the Navy has applied for an Army Corps of Engineers (COE) Clean Water Act Section 404 permit. No construction will begin on those areas that were identified as wetlands or are subject to the pending Clean Water Act Section 404 application (Public Notice 13041-87-0851-J1) until the permit has been issued. In the event that the COE final decision is to deny the Section 404 permit, the Navy will comply with all applicable rules, regulations, and administrative orders.

Existing Congressional funding authority, the considerable effort and money already expended to develop 200 units of MCON housing at the Main Station site, and the ability to mitigate environmental impacts combine to make continues development of those 200 units at that site preferred from among all the alternatives.

An evaluation of potentially available sites on non-government property concluded that no sites provided better physical, environmental, or socioeconomic conditions than the Main Station Section 801 site for which Congressional approval had been received. Based on that analysis and the inability to solicit and select a contractor to develop the housing units in time to meet the Navy's needs, those alternatives which considered sites not on federally owned property are not considered adequate to fulfill the purpose of the proposed project.

The United States Army owned Camp Evans alternative was dismissed as a viable alternative during the comment period for the DEIS. The Navy was notified by the Army that the area is being planned for consolidation of existing Army research and development activities and is no longer available to NWS Earle.

Development of the Wayside alternative for the 300 unit Section 801 project was not selected for a number of reasons. Given the existing community support facilities at the Main Station site, Wayside cannot provide as high a quality of life to the service members or their families as the Main Station site. The existing traffic, noise, and dust from the already congested roadway in the Wayside area, the physical difficulty in obtaining utilities, and the lack of legislative authority to provide these utilities combine to make the Wayside site unsuitable to fulfill the current Navy requirement for this project in a timely fashion.

The DEIS and FEIS discussed a number of short term environmental impacts resulting from construction at the Main Station site. These minor impacts to air quality and noise level which are typical to any construction site are not expected to continue after the actual construction ceases. All practical mitigation measures have been adopted. These measures included, but are not limited to, the use of prudent and proper engineering design procedures.

There were three major physical environmental issues raised during the NEPA process. Those issues included wetlands loss, the potential endangerment to the underlying aquifer, and preservation of the environmental quality of the Hockhockson Brook area.

As previously discussed, construction of the 200 unit MCON project will result in the permanent loss of 3.2 acres of palustrine wetlands. These wetlands have already inadvertently been filled and the Navy is currently awaiting regulatory approval to create wetlands in mitigation. The wetland mitigation plan and associated Clean Water Act Section 404(b)(1) analysis were incorporated into the FEIS. No construction will begin on those areas that were identified as wetlands or are subject to the pending Clean Water Act Section 404 application until the permit has been issued.

Erosion control and stormwater management plans will be implemented as part of this decision. Summaries of these plans are discussed in the FEIS.

The use of potable water by any or all of the 500 units constructed at the Main Station site will not have an impact on the aquifer underlying NWS Earle. The Navy will not draw on that aquifer underlying NWS Earle. The Navy will not draw on that aquifer to service the units. Instead, it is planned that the 500 units will be supplied potable water from a commercial surface water source that does not draw from the aquifer designated as critical by the State of New Jersey.

The ability of the NWS Earle Sanitary Sewage Treatment Plant to treat the

increased sewage flow from the new housing units and maintain the quality of Hockhockson Brook has been considered. Based on current effluent limitations, the plant now has the functional capacity to adequately treat 250,000 gallons per day, sufficient to accommodate 340 new family housing units. Therefore, concomitant with the decision to construct 500 units at the Main Station site, is the decision to increase the functional capacity of the station sewage treatment plant. In that regard, the Navy has been working with the State of New Jersey Department of Environmental Protection to obtain any necessary approval to upgrade the plant and increase its capacity. Specifically, the Navy will not expand the treatment plant or increase its discharge without first gaining such approval. Similary, the Navy will not connect the sewer extension of the proposed units or occupy any of those units until the required permits or approvals have been issued.

Once the housing is occupied, minor unavoidable impacts will include increased traffic on local roads, slight increases in air pollution from this traffic, and increased human activity in adjacent forest lands.

In regards to the potential socioeconomic impacts resulting from the construction of the 500 units of family housing, the principal issues demonstrated by the greatest expression of public concern involved the ability of the adjacent school districts to educate the Navy dependent children expected to be residing at NWS Earle. Recently, the State of New Jersey enacted special legislation to allow Navy dependent children residing on NWS Earle to attend the Tinton Falls School District. The legislation also provides that the families already residing on NWS Earle at the time of enactment have the option to continue sending their children to the Township of Colts Neck School District or transfer them to the Tinton Falls School District.

The impact to the Tinton Falls School District is expected to be negligible due to the increased amount of federal and state aid becoming available as a result of the influx of Navy dependent children over the next few years. However, the Navy has determined that until all of the units are occupied, there are insufficent funds available to Tinton Falls School District to expend for suitable free public education of these Navy dependents. In order to minimize this short term fiscal impact, the Navy, subject to the limits of current statutory authortity, intends to provide limited supplemental economic assistance necessary to allow Tinton Falls to educate the Navy dependents. It is therefore anticipated that there will be no adverse impact on any of the school districts adjacent to NWS Earle resulting from this decision.

Throughout implementation of this project the Navy will continue its close working relationship with the various interested Federal, state, and local regulatory agencies. Continuing coordination with other agencies will include, but may not be limited to, the following:

- Section 404 Permit (Clean Water Act) administered by New York District of the Army Corp of Engineers (COE), and
- New Jersey Pollution Discharge Elimination System permit for the Station Sewage treatment plant along with requisite approvals for upgrade of the facility administered by the New Jersey Department of Environmental Protection (NJDEP), and
- Coordination with the Tinton Falls School District, and
- Coordination with NJDEP, Army COE, U.S. Fish and Wildlife Service for issues involving the proposed wetland mitigation effort.

Date: June 8, 1988.

Jane M. Virga,

Lt. JAGC, USNR, Assistant Federal Register Liaison Officer.

[FR Doc. 88-13208 Filed 6-9-88; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Meeting

Notice was published May 26, 1988, at 53 FR 19023 that the Naval Research Advisory Committee Panel on Automation of Ship Systems and Equipment will meet on June 16-17, 1988. The meeting location has been changed. All sessions of the meeting will be held at the Caffritz Building, 1211 Fern Street, Room A112, Washington, D.C. All other information in the previous notice remains effective. In accordance with 5 U.S.C. section 552b(e)(2), the place of meeting change is publicly announced at the earliest practical time.

Date: June 8, 1988.

Jane M. Virga,

Lieutenant, JAGC, U.S. Navy Reserve Alternate Federal Register Liaison Officer.

[FR Doc. 88-13209 Filed 6-9-88; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.103]

Invitation; Applications for New Awards Under the Training Program for Special Programs Staff and Leadership Personnel for Fiscal Year 1988

Purpose: Provides grants to institutions of higher education, and other public and private nonprofit institutions and organizations for projects that improve the operation of the Special Programs for Students from Disadvantaged Backgrounds (Talent Search, Upward Bound, Student Support Services, and Educational Opportunity Centers) by providing training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects.

Deadline for Transmittal of Applications: July 18, 1988.

Applications Available: June 10, 1988.

Available Funds: $1,300,000.

Estimated Range of Awards: $50,000-$250,000.

Estimated Average Size of Awards: $100,000.

Estimated Number of Awards: 12.

Project Period: 24 months.

Supplementary Information: The Secretary strongly urges that applicants limit their submissions to one application for each topic of training. This request is not intended to limit the number of trainees or the number of sites proposed by an applicant but is a request for a single consolidated application on a topic.

Applicable Regulations

(a) The Training Program for Special Programs Staff and Leadership Personnel Regulations, 34 CFR Part 642, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78.

Funding Priorities

In accordance with 34 CFR 75.105 (c)(1) and 34 CFR 642.34, the Secretary encourages applicants to address the following topics in fiscal year 1988.

(1) Accountability for Funds and Services

Instruction, including written materials, which is designed to enable the project director and a project staff member most involved in the overall management of the project to comply fully with the Special Programs and the Education Department General Administrative Regulations (EDGAR) regulatory provisions relating to accounting for project funds,

documenting the eligibility of project participants, and documenting the services provided to those participants. An applicant under this priority may provide training to carry out these responsibilities under one or more of the Special Programs.

(2) Retention of Students

Instruction, including written materials, which is designed to train Student Support Services project staff in improving the retention of project participants in postsecondary institutions and, to train Upward Bound project staff to improve the retention of project participants in secondary schools. The focus of the training may be directed at clearly defined populations that have abnormally high drop-out rates.

(3) Program Evaluation

Instruction, including written materials, which is designed to enable Special Programs project directors to develop and implement program evaluations that will produce objective and quantifiable data on the impact of program services on project participants.

The Secretary will consider applications addressing other topics if the applicant demonstrates a significant training need in the region to be served.

For Applications or Information Contact: Jowava M. Leggett, Chief, Special Services Branch, Division of Student Services, U.S. Department of Education, 7th & D Streets SW., Mail Stop 3323—Room 3060, Washington, DC 20202. Telephone: (202) 732–4804.

Authority: 20 U.S.C. 1070d, 1070d–1d.

Dated: June 6, 1988.

Kenneth D. Whitehead,

Acting Assistant Secretary, Postsecondary Education.

[FR Doc. 88–13066 Filed 6–9–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Amended Meeting Notice

On June 6, 1988, notice was published of a meeting of the Industry Supply Advisory Group to the International Energy Agency (IEA), to be held at the offices of the IEA, 2, rue Andre Pascal, Paris, France, on June 13 through 16, 1988 (53 FR 20676). The notice incorrectly stated that the meeting would begin at 1:00 p.m. on June 14. The meeting will begin at 1:00 p.m. on June 13 and continue at 9:00 a.m. on June 14. As stated in the notice, the meeting will continue at 9:30 a.m. on June 15 and 16.

Issued in Washington, DC, 6th June, 1988.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 88–13041 Filed 6–9–88; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

[BPA File No: FWCP.]

Proposed Policy and Procedures To Compensate Costs and Power Losses at Non-Federal Hydroelectric Power Projects and Request for Comments

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of proposed policy and procedures and request for comments.

SUMMARY: As provided in the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), BPA proposes to establish a process to address compensation claims filed by non-Federal project operators for compensation for revenue and power losses due to the implementation of the Columbia River Basin Fish and Wildlife Program (Program). The Program, adopted by the Northwest Power Planning Council (Council), provides for various actions to protect, mitigate, and enhance Columbia River Basin fisheries.

BPA has received three claims filed by Public Utility Districts (PUDs) as a result of Federal water releases in May and June 1987. Before addressing these claims, BPA intends to take comment upon and adopt generic procedures and standards by which BPA will consider compensation claims.

BPA solicits comments regarding its proposed procedures and standards.

ADDRESSES: Written comments should be submitted to the Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212, no later than July 18, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. John Palensky, Director, Division of Fish and Wildlife, at the address listed above, 503–230–5496. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048. Information may also be obtained from:

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 243, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59807, 406–329–3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98807, 509–662–4377, extension 379.

Mr. Terence G. Esvelt, Puget Sound Area Manager, 201 Queen Anne Ave., Suite 400, Seattle, Washington 98109–1030, 206–442–4130.

Mr. Thomas V.Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–522–6225.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Thomas H. Blankenship, Boise District Manager, Room 376, 550 West Fort Street, Boise, Idaho 83724, 208–334–9137.

SUPPLEMENTARY INFORMATION:

I. Background

A. Background on Compensation

Section 4(h)(11)(A) of the Northwest Power Act provides that:

> The Administrator and other Federal agencies responsible for managing, operating, or regulating Federal or non-Federal hydroelectric facilities located on the Columbia River shall . . . exercise such responsibilities, taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable, the program adopted by the Council under this subsection. If, and to the extent that, such other Federal agencies as a result of such consideration impose upon any non-Federal electric power project measures to protect, mitigate, and enhance fish and wildlife which are not attributable to the development and operation of such project, then the resulting monetary costs and power losses (if any) shall be borne by the Administrator in accordance with this subsection.

The Northwest Power Act does not establish procedures or standards to guide BPA in compensating non-Federal project operators for costs resulting from actions taken by Federal agencies pursuant to the Northwest Power Act. Since enactment, in 1980, and adoption of the Program by the Council in 1982, BPA had not received any compensation claims. However, between August and December 1987, BPA received three claims. All were based upon Federal water releases in May and June of 1987. These claims were filed by the Public

Utility District No. 1 of Douglas County (Douglas PUD) on July 29, 1987; the Public Utility District No. 1 of the Chelan County (Chelan PUD) on October 5, 1987; and the Public Utility District of Grant County (Grant PUD) on November 25, 1987.

BPA anticipates that future claims may involve water releases and stream flows possibly created by implementation of the water budget (see next section). Consequently, BPA is providing background information to assist interested parties as they consider issues that may be raised by the existing and future compensation claims. BPA is also providing information concerning the claims resulting from the implementation of the 1987 water budget because those claims indicate several issues likely to be raised by future claims. BPA will determine a response to these claims according to BPA's adopted final procedures and standards.

B. Background on the Water Budget

1. The Water Budget.

Section 303 of the Council's Program establishes a 4.64 million acre foot (maf) water budget that augments stream flows to aid the downstream migration of juvenile fish between April 15 and June 15 each year. Of the total water budget, 3.45 maf are to be provided at Priest Rapids Dam on the Columbia River, and 1.19 maf at Lower Granite on the Snake River.

As provided in the Program, two Fish Passage Managers, established by the Council, may request water budget flows at Priest Rapids Dam on the Columbia River. Water budget flows for the Snake River are provided by releases from Dworshak and Brownlee Dams in addition to uncontrolled runoff from the Snake River basin. For both the Columbia and the Snake Rivers, the Program provides that water budget flow requests "must be greater than the firm power flows and less than 140 kcfs [thousand cubic feet per second]." [Program Section 303(a)(2)] At the Priest Rapids project on the Columbia, firm power flows are specified as 76 average weekly kcfs; at the Lower Granite project on the Snake, 65 kcfs in May, decreasing to 60 kcfs in June. In 1987, the Council modified its Program as follows: "Experimental water budget procedures shall be implemented for at least water years 1987 and 1988." [Program Section 303(c)(1)]

2. Implementing the 1987 Water Budget

The claims received by BPA may not involve the water budget as described in the Council's Program, but may stem from a decision by the U.S. Army Corps of Engineers (Corps) to facilitate an additional request by the Fish Passage Managers for flows at John Day dam of 220 kcfs. As a result of releases made by the Corps to meet this request, stream flows at Priest Rapids were an average of 155.5 kcfs for 16 days, exceeding the 140 kcfs level established in the Council's Program. Chelan, Douglas, and Grant PUDs determined that these excess flows utilized water they otherwise would have received from upstream Federal facilities later in the year when they could have made use of it. Because they were unable to use the water, they claim the release reduced their ability to generate electricity at their projects.

C. Claims Resulting from the 1987 Water Budget

1. Chelan PUD

Chelan PUD has requested the return of 13,058 MWh due to water it spilled at the Rocky Reach project. Chelan PUD claims the spill resulted from flows that exceeded the turbine capacity at that project. "Because the spilled energy would have been conserved to be released during a useful period given the low water conditions in the Region, the District further requests that the energy be returned during a period when the energy is useful."

2. Douglas PUD

Douglas PUD has requested the "* * * return of 2,087 MWh to the Wells Project * * *" as the "* * * known loss suffered by the project from the direct spill related to the excessive Water Budget Requests." Douglas claims these losses occurred because the flows exceeded the turbine capacity at the Wells project. Had water budget flows remained at 140 kcfs or less, the 2,087 MWh Douglas PUD is claiming would not have been spilled, and might have been sold at a later date.

3. Grant PUD

Grant PUD has requested payment of $590,279 or 37,947 MWh of replacement energy delivered "* * * in equal hourly amounts over a six-day period." This claim is based on the flows in excess of 140 kcfs that were "* * * in no way attributable to the development and operation of the District's projects."

D. Proposal for Addressing Compensation Claims

Since BPA does not have procedures or standards in place, BPA has determined to hold these claims in abeyance until BPA has established procedures and standards. Accordingly, by this publication in the **Federal Register**, BPA seeks comment on: (1) The policy and process BPA intends to use to address these and any possible future claims; and (2) the issues posed by the three claims received to date.

After receipt of comment, BPA will establish final procedures and standards and publish its determination in the **Federal Register**. BPA will follow these procedures and standards to consider the claims it has received.

E. Review Under the Paperwork Reduction Act

The collections of information concerning compensation claims for revenue or power losses were approved by the Office of Management and Budget (OMB) and assigned OMB Control No. 1910–1200. It is estimated that the number of responses per year will be 3 and that the annual respondent burden is 30 burden hours per fiscal year (i.e., 3 claims at 10 hours per claim).

Comments pertaining to the Paperwork Reduction Act aspects of this information collection must be filed within 30 days of this Notice. Address Paperwork Reduction Act comments to: Janice M. Schmidt, U.S. Department of Energy, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

II. Compensation Claim Issues

BPA is requesting comments on the following issues as well as its proposed compensation policy. Comments are welcomed on any other issues concerning compensation claims.

1. What opportunities should BPA provide for public comment and review? Should BPA file a **Federal Register** notice every time it receives a compensation claim? What other notification and opportunities for comment should be provided?

2. Should BPA rseserve the right to elect whether it compensates with replacement power or revenues? If BPA payments are in replacement power, how and when should power be supplied? Should BPA not compensate by providing cash payments for lost revenues? In handling future compensation claims, should BPA maintain a budget to fund the cost of replacement power or cash payments?

3. How should BPA determine if a project has experienced power or revenue losses from measures imposed to mitigate effects "not attributable to the development and operation of such project?" The Northwest Power Act provides that compensation can be paid only for those costs and power losses which result from measures imposed to mitigate effects not attributable to the

development and operation of the non-Federal project. How should BPA determine fish passage mortality due to increased travel time through the Columbia River Power System and other factors, and how should BPA attribute these and other factors to each project for which a claim has been filed?

4. What should BPA compensate? BPA interprets section 4(h)(11)(A)(ii) to require compenstion only for measures to protect, mitigate, and enhance fish and wildlife that are taken to implement specific provisions in the Council's Program. If an action is taken for other reasons or is not specifically included in the Council's Program, should the Administrator be responsible for compensation?

5. Is the release of water by the Corps or Bureau of Reclamation an "imposition" of a measure within the meaning of the statutory language? Or does the statutory language only envision mandated physical changes or operation restrictions at the facility?

6. On what basis should BPA determine whether an action of another Federal agency implements a measure in the Council's Program or is independent of the Council's Program? What effect should consideration of other purposes for which water is stored and released have on claims?

7. How should BPA determine which costs should be compensated? How should BPA determine the value of lost power? How should BPA consider the ability of claimants to market power they claim to have lost? Should BPA's determination be different if the flows were in excess of turbine capacity, as opposed to merely being in excess of market? How should BPA determine the available markets? Should BPA evaluate actions the claimant could have taken to mitigate the effects of a measure resulting in a claim? Should BPA also evaluate actions the claimant may have taken that exacerbated the effects of a measure resulting in a claim?

III. Proposed Fish and Wildlife Compensation Policy and Procedures

Section 1. Definitions

A. "Claimant" means any non-Federal hydroelectric power project owner or operator requesting compensation under this policy.

B. "Basin" means the Columbia River and its tributaries (within the borders of the United States).

C. "Costs and Power Losses" means those non-Federal hydroelectric power projects' monetary and electric power losses directly caused as a result of imposition of a measure by a Federal agency to implement specific provisions in the Council's Fish and Wildlife Program. In order to qualify for compensation, costs and power losses must be directly attributable to measures in the Council's Program imposed to mitigate fish and wildlife effects which are not attributable to the development and operation of the non-Federal project which is the subject of a claim.

D. "Council" means the Pacific Northwest Electric Power and Conservation Planning Council established by the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501.

E. "Federal Agencies" in this case means those Federal agencies, other than BPA, which are responsible for managing, operating, or regulating hydroelectric power projects, including the U.S. Army Corps of Engineers (Corps), the Bureau of Reclamation (Bureau), and the Federal Energy Regulatory Commission (FERC).

F. "Federal Project" means any federally owned hydroelectric project on the Columbia River or its tributaries.

G. "Imposed" refers to fish and wildlife obligations or restrictions which a non-Federal hydroelectric power project must implement or comply with because of Federal law, regulation, or order applicable to the project.

H. "Program" means the Columbia River Basin Fish and Wildlife Program and amendments thereto adopted by the Northwest Power Planning Council.

Section 2. Conditions for Compensation Payment

A. The Administrator will consider compensation requests only from non-Federal hydroelectric power projects located within the Columbia River Basin.

B. The Administrator will consider compensating only those costs and power losses which result from measures imposed to mitigate effects not attributable to the development and operation of the non-Federal hydroelectric power project which is the subject of a claim.

C. Costs and power losses must result from a fish and wildlife measure which has been imposed upon the claimant by a Federal agency implementing specific provisions in the Council's Program.

D. Claimants for compensation must provide information and analyses that demonstrate:

1. Costs or power losses which have been incurred as a result of an imposed fish and wildlife measure;

2. Any actions that were, or could have been, taken by the claimant to mitigate or reduce the impact created by the fish and wildlife measure; and

3. Any actions that were taken by the claimant that increased or exacerbated the impact created by the fish and wildlife measure.

Section 3. Requirements for Claimants

A. For claims received after the effective date of this policy, claimants for compensation shall submit a written claim to BPA within 120 days after a cost or power loss occurs.

B. Claimants shall demonstrate the methods and formulae used to quantify monetary costs and/or power losses.

C. Claimants shall include a detailed description of how the action by a Federal agency implemented specific provisions in the Council's Fish and Wildlife Program.

D. Claimants shall demonstrate that any claimed costs and power losses are the results of measures imposed to mitigate fish and wildlife effects that are not attributable to the project's development and operation.

E. Claimants shall provide such additional information as the Administrator may require to justify compensation payments.

F. Compensation must be signed by the chief executive officer or duly authorized representative of the claimant, that the contents are true and accurate.

Section 4. The Administrator's Decisionmaking Process

A. Review of Claims for Compensation. The Administrator shall review each compensation claim in a timely manner to determine whether the claim contains sufficient information to enable the Administrator to make a decision consistent with the requirements of 4(h)(11)(A)(ii) and criteria of this policy.

B. Insufficient Information. The Administrator may reject claims containing insufficient information to evaluate a claim, or the Administrator may request submission of additional information supporting the claim. Reasons for the Administrator's action shall be explained in writing.

C. Decisions on Compensation Claims. Upon completion of analysis, the Administrator shall approve or deny a claim either in whole or in part. Any adjustments to the claim shall be documented by the Administrator.

Section 5. Form of Compensation Payment

It is within the Administrator's discretion to compensate qualifying non-Federal hydroelectric operators with power or cash.

A. Payment with Power. Compensation to claimants under this policy for power losses will normally be made in the form of power. Compensation power shall be delivered at times convenient to BPA.

B. Payment with Cash. Compensation to claimants under this policy for cash losses will normally be made in the form of cash.

Section 6. Records and Access to Information

A. Claimants must maintain such records as will permit the Administrator to audit, inspect, or otherwise review any aspect of power operations, construction or operation for which compensation is sought or paid.

B. Documents submitted to BPA shall be available to the public.

Section 7. Public Notice

A. Notice of Receipt of Claim

The Administrator shall provide written notice of receipt of compensation claims to interested parties. The notice shall:

1. Indicate the name and address of the claimant;
2. Describe the action alleged by the claimant which resulted in the claim;
3. Indicate the amount and type of compensation sought;
4. Invite interested parties to comment within 30 days; and
5. Indicate the availability of the claim to the public.

B. Interested Parties

Interested parties include:

1. State and Federal Fish and Wildlife Agencies in the Pacific Northwest;
2. Indian Tribes of the Columbia Basin;
3. BPA Customers;
4. Non-Federal Project Operators;
5. U.S. Army Corps of Engineers;
6. Federal Energy Regulatory Commission;
7. Bureau of Reclamation;
8. Pacific Northwest Power Planning Council; and
9. Any other persons requesting notice.

C. Notice of Approval/Disapproval

The Administrator shall provide written notice to interested parties of final action taken for all claims. The notice shall:

1. Indicate the name and address of the claimant;
2. Describe the action alleged by the claimant which resulted in the claim;
3. Indicate the compensation sought;
4. Invite interested parties to comment within 30 days; and
5. Indicate the availability to the public of the claim and decision documents.

Issued in Portland, Oregon, on May 17, 1988.

Jack Robertson,

Deputy Administrator, Bonneville Power Administration.

[FR Doc. 88-13139 Filed 6-9-88; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 88-25-NG]

Czar Gas Corp., Inc.; Application To Import Natural Gas from and Export Natural Gas to Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of application for blanket authorization to import natural gas from and export natural gas to Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on April 26, 1988, of an application filed by Czar Gas Corporation Inc. (Czar) for blanket authorization to import up to 146 Bcf of natural gas to Canada, and to export up to 146 Bcf of natural gas from Canada, over a two-year period beginning on the date of first delivery. Czar, a Delaware corporation with its principal place of business in Calgary, Alberta, Canada, is a wholly owned subsidiary of Czar Resources Ltd. Czar proposes to import or export natural gas for its own account or act as a broker for both U.S. and Canadian purchasers and suppliers. Czar intends to utilize existing pipeline facilities for transportation of the volumes to be imported or exported and to submit quarterly reports detailing each transaction.

The application is filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than July 11, 1988.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Natural Gas Division, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9590

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: Czar currently imports natural gas under an existing authorization issued in DOE/ERA Opinion and Order No. 137 which expires July 17, 1988. Under this authorization Czar has imported 2.928 Bcf as of December 31, 1987. Under the broader blanket authority sought in this proceeding, Czar intends to import natural gas from Canadian suppliers including Czar Resources Ltd., for sale on a short-term or spot market basis to U.S. purchasers or for eventual return and sale to Canadian markets. Similarly, the export authorization sought by Czar would permit it to export U.S. produced gas for sale to spot-market purchasers in Canada or eventually, in the U.S. The specific terms of each import or export sale would be negotiated on an individual basis, including price and volume. Czar asserts that the sale of Canadian natural gas imports will be made pursuant to terms dictated by the prevailing economic conditions in the domestic market and that surplus U.S. natural gas supplies will be exported to Canada on the basis of their competitiveness and need by U.S. purchasers. Czar futher asserts that it intends to import or export gas through the following points and pipelines:

Entry Point	Pipelines
1. Sumas, Washington	Northwest Pipeline Corp.
2. Eastport, Idaho	Pacific Gas Transmission Co.
3. Detroit, Michigan	Panhandle Eastern Pipleine Co.
4. Emerson, Manitoba	Great Lakes Gas Transmission Co.
5. Monchy, Saskatchewan.	Northern Border Pipeline Co.
6. Niagara Falls, Ontario.	Tennessee Gas Pipleine Co.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, the ERA considers the domestic need for the gas to be exported, and any other issue determined by the Administrator to be appropriate in a particular case. Parties that may oppose this application should comment in their responses on the issue

of competitiveness as set forth in the policy guidelines for the requested import authority, and on the domestic need for the gas in their responses on the requested export authority. The applicant asserts that this import and export arrangement will be in the public interest in that the pricing terms for each import or export sale must be competitive in the U.S. and Canadian gas markets served or no sales will be made. Parties opposing the arrangement bear the burden of overcoming this assertion.

Czar requests that an authorization be granted on an expedited basis. An ERA decision on Czar's request for expedited treatment will not be made until all responses to this notice have been received and evaluated.

All parties should be aware that if the ERA approves this requested blanket import/export it may designate a total amount of authorized volumes for the term rather than a daily or annual limit, in order to provide the applicant with maximum flexibility. Further, if the ERA approves this requested blanket import/export, it may permit the import or export of the gas at any existing point of entry and through any existing transmission system. ERA will also condition the authorization on the filing of quarterly reports to facilitate ERA monitoring of the operation and effectiveness of the blanket program.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m., e.d.t., July 11, 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 facts and issues. A party seeking intervention may request that additional procedure 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 Czar'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, June 2, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 13141 Filed 6-9-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER88-403-000, et al.]

Arizona Public Service Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

May 26, 1988.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER88-403-000]

Take notice that on May 19, 1988, Arizona Public Service Company (APS) tendered for filing a Five Year Power Sale Agreement (Agreement) between San Diego Gas & Electric Company (SDG&E) and APS, executed May 5, 1988.

The tendered Agreement provides for the sale of as much as 230 MW per hour of energy on a firm basis, by APS to SDG&E. Purchases of energy must be pre-scheduled by SDG&E 24 hours in advance. The Agreement provides for sales to commence on June 1, 1989 and to terminate on December 31, 1994. The Agreement provides for an energy rate which is the greater of 87% of SDG&E's decremental energy cost or APS' incremental energy cost. In addition, a reservation charge is also proposed, initially establish at $1.90/kw/month and escalating at 10 cents/kw/month each calendar year thereafter. In the event that SDG&E elects not to pre-schedule any firm energy, a credit of 1.8 cent/day (escalating at 0.1 cent/day each calendar year thereafter) will be allowed and applied against the monthly reservation charge.

A copy of this filing has been served upon San Diego Gas & Electric Company, the California Public Utilities Commission and the Arizona Corporation Commission.

Comment date: June 13, 1988, in accordance with Standard Paragraph E at the end of this document.

2. Southern California Edison Company

[Docket No. ER88-404-000]

Take notice that on May 20, 1988, Southern California Edison Company (Edison) tendered for filing a Letter Agreement which updates Exhibit B to the Agreement for Integration and Interruptible Transmission of Non-Firm Energy Purchased by Vernon from the State of California Department of Water Resources (CDWR) between Edison and the City of Vernon, California (Vernon) (Agreement), designated Rate Schedule FERC No. 172.

The Letter Agreement provides updated Vernon-CDWR purchase agreements which are attached to the Agreement as Exhibit B.

Edison requests and Vernon supports waiver or prior notice requirements as contained in Section 35.3 of the Commission's regulations and respectfully request an effective date of January 3, 1985.

Copies of this filing were served upon the Public Utilities Commission of the

State of California and the City of Vernon, California.

Comment date: June 13, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of Indiana, Inc.

[Docket No. ER88–405–000]

Take notice that on May 20, 1988, Public Service Company of Indiana, Inc. (PSI) tendered for filing pursuant to the Interconnection Agreement, dated March 9, 1971, as amended, by and between the United States of America, Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier), Southern Indiana Gas and Electric Company (SIGECO), and Public Service Company of Indiana, Inc. (Public Service) a Seventh Supplemental Agreement to become effective June 1, 1988, pursuant to § 35.2 of the Commission's Regulations.

The Seventh Supplemental Agreement inserts a new Service Schedule D—Short Term Power which deletes the existing Service Schedule D.

Copies of the filing were served upon Southern Indiana Gas and Electric Company, Hoosier Energy Rural Electric Cooperative, Inc., and the Indiana Utility Regulatory Commission.

Public Service Company of Indiana, Inc. has requested waiver of the Commission's Notice requirement to permit an effective date of June 1, 1988.

Comment date: June 13, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Pennsylvania Power & Light Company

[Docket No. ER88–407–000]

Take notice that on May 20, 1988, Pennsylvania Power & Light Company (PP&L) tendered for filing a Capacity and Energy Sales Agreement, dated January 28, 1988 between PP&L and Baltimore Gas and Electric Company (BG&E).

The Agreement provides for the sale by PP&L to BG&E of 5.94 percent of the net capacity and energy output of each unit of PP&L's Susquehanna Steam Electric Station located in Salem Township, Luzerne County, Pennsylvania. The Agreement also provides that PP&L will provide transmission service for BG&E from the Susquehanna Steam Electric Station to PP&L's points of interconnection with BG&E's transmission systems. The Agreement further provides PP&L will sell BG&E Daily Generating Capacity Megawatts to be used by BG&E solely for Pennsylvania-New Jersey-Maryland Interconnection installed capacity accounting purposes. PP&L proposes that the filing be effective upon the date the Commission accepts the Agreement filing as a rate schedule.

Copies of the filing were served upon BG&E, the Pennsylvania Public Utility Commission, and the Maryland Public Service Commission.

Comment date: June 13, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Portland General Electric Company

[Docket No. ER88–406–000]

Take notice that on May 20, 1988, Portland General Electric Company (PGE) tendered for filing new Service Agreements with the Colockum Transmission Company, Inc., Puget Sound Power & Light Company, and Snohomish County Public Utility District No. 1 made under the Company's second revised Electric Service Tariff, Volume No. 1.

PGE requests effective dates of February 1, 1988, February 1, 1988, and April 1, 1988, respectively, and therefore requests a waiver of the Commission's notice requirements.

Copies of the filing were served upon parties having Service Agreements with PGE, parties to the Intercompany Pool Agreement (Revised), the intervenors in Docket No. ER77–131, and the Oregon Public Utility Commission.

Comment date: June 13, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accor dance 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. 88–13149 Filed 6–9–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER88–355–000, et al.]

El Paso Electric 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. El Paso Electric Company

[Docket No. ER88–355–000]

June 3, 1988.

Take notice that on May 26, 1988, El Paso Electric Company (EPE) tendered for filing a supplement to its filing dated April 19, 1988.

Comment date: June 10, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Montana Power Company

[Docket No. ER88–423–000]

June 6, 1988.

Take notice that on May 27, 1988, Montana Power Company (Montana) tendered for filing a revised Appendix I as required by Exhibit C for retail sales in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Montana and the Bonneville Power Administration (BPA).

The Agreement was entered into pursuant to the Pacific. Northwest Electric Power Planning and conservation Act, Pub. L. 96–501. The Agreement provides for the exchange of electric power between Montana and BPA for the benefit of Montana's residential and farm customers.

Montana requests that the rate have an effective date of September 29, 1987 and, therefore, request waiver of the Commission's notice requirements.

A copy of the filing was served upon BPA.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Michael J. Del Giudice

[Docket No. ID–2345–000]

June 6, 1988.

Take notice that on May 27, 1988, Michael J. Del Giudice tendered for filing an application for authorization under section 305(b) of the Federal Power Act and Part 45 of the Regulations of the Federal Energy Regulatory Commission to hold the following interlocking positions:

Position	Corporation	Classification
Director	Orange and Rockland Utilities, Inc.	Public utility.

Position	Corporation	Classification
General partner.	Lazard Freres & Co.	Investment banking firm.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Arizona Public Service Company

[Docket No. ER88-434-000]

June 6, 1988.

Take notice that on May 31, 1988, Arizona Public Service Company (APS) tendered for filing a Transmission Service Agreement (Agreement) between APS and the Department of the Navy (Navy). The Agreement provides for the transmission of up to 2.157 MW of the Navy's recently required allotment of preference power from the Parker-Davis Project.

The Agreement provies for APS to wheel the Navy's preference power allocations and make delivery of such power at a distribution voltage level of service. The proposed rate level is identical to that for rates on file with the Commission for similar type service.

No new facilities or modifications to existing facilities are required to provide service under the Agreement.

APS, has agreed to begin service on June 1, 1988 and thus, with the concurrence of the Navy, requests wavier of the Commission's Notice Requirements so service may begin on such date.

Copies of this filing have been served on the Navy and the Arizona Corporation Commission.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Connecticut Light and Power Company, et al.

[Docket No. ER88-430-000]

June 6, 1988.

Take notice that on May 27, 1988, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Service Agreement (Agreement) dated February 6, 1988 between (1) CL&P and Western Massachusetts Electric Company (WMECO) and (2) Green Mountain Power Corporation (GMP).

CL&P states that the Agreement provides for service to GMP for the transmission of GMP's purchase of electric system capacity and associated energy from the system of the Connecticut Municipal Electric Energy Cooperative (CMEEC).

The transmission charge rate is an annual rate developted in accordance with Appendix A and Exhibits I, II and III thereto of the Agreement. The transmission charge is determined by the product of (i) the appropriate annual transmission charge rate (expressed in $/kW-yr) divided by 52 for the weekly charge, or 12 for the monthly charge, and (ii) the number of kilowatts of capacity and energy purchased by GMP during such week or month.

CL&P requests that the Commission waive its standard notice period and permit the Agreement to become effective as of February 6, 1988 and to supersede a prior transmission service agreement (CL&P Rate Schedule FERC No. 341, WMECO Rate Schedule FERC No. 273), thus automatically terminating the prior transmission service agreement.

WMECO has filed a Certificate of Concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, WMECO, and GMP (South Burlington, VT).

CL&P further states that the filing is in accordance with § 35 of the Commission's Regulations.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Commonwealth Edison Company

[Docket No. ER88-426-000]

June 6, 1988.

Take notice that on May 27, 1988, Commonwealth Edison Company (Edison) tendered for filing changes in its FERC Order No. 84 Rate Schedule for third-party purchase and resale transactions. Edison also submitted a Notice of Cancellation with respect to Rate Schedule FPC No. 15 (Sales at Wholesale for Petroleum Conservation).

Edison's FERC Order No 84 Rate Schedule, as revised, provides that (1) when Edison voluntarily engages in third-party purchase and resale of electric power or energy or voluntarily provides transmission service for such transaction and (2) where the energy transmitted is such transaction is priced according to the purchased energy price from third-party systems, Edison will charge the receiving party:

a. the amount Edison pays the supplying party; plus

b. 5.00 mills per kilowatthour (for transmission investment) for energy transmitted during on-peak hours and 1.50 mills per kilowatthour for energy transmitted during off-peak hours (in no event shall the total of such amounts for any one day exceed $0.8 times the highest average number of kilowatts delivered in any hour during the day); plus

c. 1.00 mill per kilowatthour for difficult to quantify costs; plus

d. the cost of transmission losses and revenue taxes incurred that would not otherwise have been incurred.

Edison requests expedited consideration of the filing and an effective date coincident with the Commission's order accepting the rate change for filing. Accordingly, Edison requests waiver of the Commission's notice requirements, to the extent necessary.

Copies of this filing were served upon the Illinois Commerce Commission, the Indiana Utility Regulatory Commission, the Michigan Public Service Commission, the Public Service Commission of Wisconsin, the Iowa State Commerce Commission, the Minnesota Public Utilities Commission, and all parties to Edison's Interconnection Agreements.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this document.

7. Connecticut Light and Power Company, et al.

[Docket No. ER88-424-000]

June 6, 1988.

Take notice that on May 27, 1988, Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule (1) a purchase agreement with respect to various gas turbine units between CL&P and the United Illuminating Company (UI). The agreement, dated December 1, 1985, provides for CL&P to sell capacity and associated energy from certain of its gas turbine units and provide transmission service under the agreement; (2) a transmission service agreement between CL&P and Western Massachusetts Electric Company ("WMECO", together with CL&P, the "NU Companies") and UI. The agreement, dated January 6, 1987, provides for transmission service to UI for their purchase of electric capacity and associated energy from the Connecticut Municipal Electric Energy Cooperative; (3) a transmission service agreement (collectively, the "Agreements") between the NU Companies and UI. The agreement, dated January 12, 1988, provides for transmission service to UI for their exchange of electric capacity and associated energy from various units or system capacity on the system of Boston Edison Company.

CL&P requests that the Commission waive its standard notice period and allow the rate schedule to become effective on December 1, 1985.

WMECO has filed a Certificate of Concurrence pertaining to the Agreements, dated January 6, 1987 and January 12, 1988.

CL&P states that a copy of this rate schedule has been mailed to UI (New Haven, Connecticut), and WMECO.

CL&P further states that the filing is in accordance with § 35 of the Commission's Regulations.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

8. Connecticut Light and Power Company, et al.

[Docket No. ER88-429-000]

June 6, 1988.

Take notice that on May 27, 1988, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule and, effective February 29, 1988, a proposed termination in accordance with the terms of said rate schedule, with respect to a Transmission Service Agreement (Agreement) dated January 1, 1988 between (1) CL&P and Western Massachusetts Electric Company (WMECO) and (2) New England Power Company (NEP).

CL&P states that the Agreement provides for service to NEP for the transmission of NEP's purchase of electric system capacity and associated energy from the system of the Long Island Lighting Company (LILCO).

The transmission charge rate is an annual rate developed in accordance with Appendix A and Exhibits I, II and III thereto of the Agreement. The monthly transmission charge is determined by the product of (i) the appropriate annual transmission charge rate (expressed in $/kW-yr) divided by 12, and (ii) the number of kilowatts of capacity and energy purchased by NEP during such month.

CL&P requests that the Commission waive its standard notice periods and permit the Agreement to become effective as of January 1, 1988, and to terminate, in accordance with its own terms, effective February 29, 1988.

WMECO has filed a Certificate of Concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, WMECO, and NEP (Westborough, MA).

CL&P further states that the filing is in accordance with § 35 of the Commission's Regulations.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

9. Connecticut Light and Power Company, et al.

[Docket No. ER88-428-000]

June 6, 1988.

Take notice that on May 27, 1988, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Service Agreement (Agreement) dated November 1, 1987 between (1) CL&P and Western Massachusetts Electric Company (WMECO) and (2) Holyoke Gas & Electric Department (Holyoke).

CL&P states that the Agreement provides for service to Holyoke for the transmission of Holyoke's purchase of electric capacity and associated energy from North Attleboro Electric Department.

The transmission charge rate is an annual rate developed in accordance with Appendix A and Exhibits I, II and III thereto of the Agreement. The monthly transmission charge is determined by the product of (i) the appropriate annual transmission charge rate (expressed in $/kW-yr) divided by 12, and (ii) the number of kilowatts of capacity and energy purchased by Holyoke during such month.

CL&P requests that the Commission waive its standard notice period and permit the Agreement to become effective as of November 1, 1987.

WMECO has filed a Certificate of Concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, WMECO, and Holyoke (Holyoke, MA).

CL&P further states that the filing is in accordance with § 35 of the Commission's Regulations.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

10. Connecticut Light and Power Company, et al.

[Docket No. ER-88-427-000]

June 6, 1988.

Take notice that on May 27, 1988, Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule: (1) A sales agreement with respect to various fossil generating units between CL&P and Public Service Company of New Hampshire (PSNH). The agreement dated November 1, 1985 provides for CL&P to sell capacity and associated energy along with related transmission service from one of CL&P's fossil units and other fossil units in which CL&P has entitlements; (2) a purchase agreement with respect to various gas turbine units between CL&P and PSNH. The agreement, dated November 1, 1986, provides for CL&P to sell capacity and associated energy from certain of its gas turbine units and provide transmission service under the agreement; (3) a transmission service agreement between CL&P and Western Massachusetts Electric Company ("WMECO", together with CL&P, the "NU Companies") and PSNH. The agreement, dated November 1, 1986, provides for transmission service to PSNH for their purchase of electric capacity and associated energy from the Connecticut Municipal Electric Energy Cooperative; (4) a transmission service agreement between the NU Companies and PSNH. The agreement, dated May 1, 1987, provides for transmission service to PSNH for their purchase of electric capacity and associated energy from various units on the system of the United Illuminating Company. Also tendered for filing are proposed terminations of the second, third, and fourth agreements listed above, in accordance with the terms of the agreements.

CL&P requests that the Commission waive its standard notice periods and allow the rate schedule to become effective on November 1, 1985, and allow the second, third, and fourth agreements listed above to terminate, in accordance with their own terms, effective April 30, 1987, October 31, 1987, and April 30, 1988, respectively.

WMECO has filed a Certificate of Concurrence pertaining to the transmission service agreements dated November 1, 1986 and May 1, 1987.

CL&P states that a copy of this rate schedule has been mailed or delivered to PSNH (Manchester, New Hampshire), and WMECO.

CL&P further states that the filing is in accordance with § 35 of the Commission's Regulations.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Power & Light Company

[Docket No. ER87-554-004]

June 6, 1988.

Take notice that on May 27, 1988, Wisconsin Power & Light Company tendered for filing a Compliance Refund Report, Docket No. ER87-554. The refund is for the period August 1, 1987 through December 31, 1987. Copies of the filing were served upon the affected jurisdictional customers and the Public Service Commission of Wisconsin.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this document.

12. Central Louisiana Electric Company, Inc.

[Docket No. ER88-433-000]

June 6, 1988.

Take notice that on May 27, 1988, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing proposed revisions to its FERC Rate Schedules WR-1 and FA-W for service to the Towns of Boyce and Elizabeth, Louisiana. CLECO states that the revised rates would increase revenues by $150,720 on an annual basis with $51,775 of this total made effective in the first year. The proposed rates are filed to recover increased costs including increased operating expenses and capital costs. The revised rate schedule is proposed to become effective on July 27, 1988.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

13. Connecticut Light and Power Company, et al.

[Docket No. ER88-431-000]

June 6, 1988.

Take notice that on May 27, 1988, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule and, effective February 21, 1988, a proposed termination in accordance with the terms of said rate schedule, with respect to a Transmission Service Agreement (Agreement) dated January 1, 1988 between (1) CL&P and Western Massachusetts Electric Company (WMECO) and (2) Chicopee Municipal Lighting Plant (CMLP).

CL&P states that the Agreement provides for service to CMLP for the transmission of CMLP's purchase of an entitlement in electric capacity and associated energy from a certain generating unit on the system of the United Illuminating Company (UI).

The transmission charge rate is an annual rate developed in accordance with Appendix A and Exhibits I, II and III thereto of the Agreement. The transmission charge is determined by the product of: (i) The appropriate annual transmission charge rate (expressed in $/kW-yr) divided by 12 for the monthly charge, or 52 for the weekly charge, and (ii) the number of kilowatts of capacity and energy purchased by CMLP during such month or week. Such transmission charge is reduced in recognition of payments made by CMLP to other systems also providing transmission service.

CL&P requests that the Commission waive its standard notice periods and permit the Agreement to become effective as of January 1, 1988, and to terminate, in accordance with its own terms, effective February 21, 1988.

WMECO has filed a Certificate of Concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, WMECO, and CMLP (Westborough, MA).

CL&P further states that the filing is in accordance with § 35 of the Commission's Regulations.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

14. Connecticut Light and Power Company, et al.

[Docket No. ER88-425-000]

June 6, 1988.

Take notice that on May 27, 1988, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule and, effective April 6, 1987, a proposed termination in accordance with the terms of said rate schedule, with respect to a Transmission Service Agreement (Agreement) dated April 7, 1986 between (1) CL&P and Western Massachusetts Electric Company (WMECO) and (2) Massachusetts Municipal Wholesale Electric Company (MMWEC).

CL&P states that the Agreement provides for service to MMWEC for the transmission of MMWEC's purchase of electric capacity and associated energy from certain generating units in which the Connecticut Municipal Electric Energy Cooperative (CMEEC) has entitlements.

The transmission charge rate is an annual rate developed in accordance with Appendix A and Exhibits I, II, and III thereto of the Agreement and is charged on either a weekly or a monthly basis. The transmission charge is determined by the product of (i) the appropriate annual transmission charge rate (expressed in $/kw-yr) divided by fifty-two for the weekly charge, or twelve for the monthly charge, and (ii) the number of kilowatts MMWEC purchases from CMEEC during such week or month. The transmission charge is reduced in recognition of payments made by MMWEC to other systems also providing transmission service.

CL&P requests that the Commission waive its standard notice periods and permit the Agreement to become effective as of April 7, 1986, and to terminate, in accordance with its own terms, effective April 6, 1987.

WMECO has filed a Certificate of Concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, WMECO, and MMWEC (Ludlow, MA).

CL&P further states that the filing is in accordance with § 35 of the Commission's Regulations.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

15. Gulf States Utilities Company

[Docket No. ER86-558-019]

June 6, 1988.

Take notice that on May 27, 1988, Gulf States Utilities Company (Gulf States) tendered for filing, pursuant to Commission letter dated April 18, 1988, a compliance report for the total refund plus interest to the Brazos Electric Power Cooperative, Inc. Gulf States states that it has included the workpapers showing the computation of the refund and interest calculation for the affected customer.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

16. Tucson Electric Power Company

[Docket No. ER88-432-000]

June 6, 1988.

Take notice that on May 27, 1988, Tucson Electric Power Company (Tucson) tendered for filing pursuant to 18 C.F.R. § 35.12, an agreement entitled "1990-2011 Power Sale Agreement Between Tucson Electric Power Company and Salt River Project Agricultural Improvement and Power District."

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: June 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies

of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13080 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6488-004]

Alternate Energy Resources, Inc.; Availability of Environmental Assessment

June 6, 1988.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license for the proposed Big Mosquito Creek Power Project and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project, and has concluded that approval of the proposed project with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13081 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

Application Filed With the Commission

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. Type of Application: Transfer of License.

b. Project No.: 2769-011.

c. Date filed: March 18, 1988.

d. Applicant: Allegheny Electric Cooperative, Inc. (licensee); Allegheny Electric Cooperative, Inc. and The Connecticut Bank and Trust Company, National Association (transferees).

e. Name of Project: Raystown Hydroelectric Project.

f. Location: On the Raystown Branch of the Juniata River in Huntington County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Anthony C. Adonizio, Deputy General Counsel, Allegheny Electric Cooperative, Inc., P.O. Box 1266, Harrisburg, PA 17108, (717) 233-5704.

i. FERC Contact: Michael Dees (202) 376-9414.

j. Comment Date: June 29, 1988.

k. Description of Transfer: On March 18, 1988, Allegheny Electric Cooperative, Inc. (licensee/transferee), and The Connecticut Bank and Trust Company, National Association (transferee), filed a joint application for transfer of the major license for the Raystown Hydroelectric Project No. 2769. The proposed transferee will not result in any changes in the project. The transferees state that they would comply with all the terms and conditions of the license.

l. This notice also consists of the following standard paragraphs: B and C.

B. Comments, Protests, or Motions to Intervene

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents

Any filings must bear in all capital letters the title "Comments," "Notice of intent to file competing application", "Protest" or "Motion to intervene", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to: Dean Shumway, Acting Director, Division of Project Review, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13082 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-409-000, et al.]

Natural Gas Company of America et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Natural Gas Company of America

[Docket No. CP88-409-000]

June 3, 1988.

Take notice that on May 25, 1988, Natural Gas Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP88-409-000 a request pursuant to § 157.205 of the Regulations for authorization to increase deliveries of natural gas to Northern Illinois Gas Company (NIGas) at one delivery point by shifting a portion of NIGas' entitlement at another point, under Natural's blanket certificate issued in Docket No. CP82-402-000 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.

Natural proposes to increase deliveries to NIGas at the City of Rochelle delivery point, Ogle County, Illinois, by 6,900 Mcf, from 13,100 Mcf per day to 20,000 Mcf per day, and to decrease deliveries to NIGas at the Rockford delivery point, Winnebago County, Illinois, by 6,900 Mcf per day. It is stated that the load shift can be accomplished without any change in NIGas' total daily entitlement from Natural. It is asserted that the shift is required because the City of Rochelle has decided to convert a coal-fired boiler to natural gas with a resulting increase in its system load. It is further asserted that no customers on NIGas' or on Natural's systems would be negatively impacted by the change.

Natural also proposes to replace its metering facilities at the Rochelle delivery point, replacing a 4-inch turbine meter with a 6-inch turbine meter, at a cost of $18,200, to be reimbursed by NIGas.

Comment date: July 18, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP88-425-000]

June 6, 1988.

Take notice that on May 27, 1988, Arkla Energy Resources (AER), a division of Arkla, Inc., filed in Docket No. CP88-425-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a sales tap and related jurisdictional facilities necessary to deliver gas from its jurisdictional system for resale by Arkansas Louisiana Gas Company (ALG), a division of Arkla, Inc., under the certificate authorization issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

AER proposes to construct and operate a sales tap on its Line 28-1 in Cowley County, Kansas, to deliver gas to ALG for service to Mark Lewis, a domestic residential customer who would use approximately 140 Mcf per year and about 2 Mcf on a peak day.

AER states that the gas would be delivered from its general system supply, which it is stated is adequate to provide the service.

AER states that the gas delivered and resold by ALG to the end user would be priced in accordance with the currently filed rate schedules authorized by the Kansas Corporation Commission.

Comment date: July 21, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP88-408-000]

June 6, 1988.

Take notice that on May 24, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP88-408-000 pursuant to § 147.205 and § 157.216(b) of the Commission's regulations for authorization to abandon natural gas sales and transportation service to Shell Oil Company (Shell) Norco, St. Charles Parish, Louisiana, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United states that the contract has terminated and that Shell has consented to the proposed abandonment. United further states that its facilities will remain in place in anticipation of future service at this location.

Comment date: July 21, 1988, in accordance with Standard Paragraph G. at the end of this notice.

Standard Paragraph

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed 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. 88-13083 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-178-000]

Algonquin Gas Transmission Co.; Petition of Algonquin Gas Transmission Co. for Authority to Flow Through Direct Billed Order No. 473 Surcharge

June 6, 1988.

Take notice that on May 27, 1988, Algonquin Gas Transmission Company ("Algonquin") petitioned the Federal Energy Regulation Commission ("Commission") for authority to flow through to its customers any direct billed charges that Algonquin may be required to pay to its pipeline suppliers as a result of retroactive Order No. 473 surcharges incurred by its suppliers. Algonquin notes that its petition is made in light of the surcharges made by CNG Transmission Corporation ("Consolidated") to direct bill Algonquin (and others) certain surcharges under Order No. 473.

All as is more fully set forth in its petition, Algonquin states that it proposes to flow through charges from its suppliers based on its customers' actual purchases during the applicable period under rate schedules where the gas supply originates. Algonquin requests any necessary waivers of the Commission's Regulations to effect the proposed flow through direct billing.

Algonquin submits that its proposal will avoid raising current rates by inclusion of extraordinary costs in its purchased gas adjustments, and that the use of actual past purchases will more closely match costs incurrence with cost responsibility.

Algonquin states that it has previously flowed through refunds it has received under said Order No. 473.

Algonquin also states that it has served copies of its petition upon all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 13, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois Cashell,

Acting Secretary.

[FR Doc. 88-13084 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-61-000]

Bayou Interstate Pipeline System; Changes in Rates

June 6, 1988.

Take notice that on May 31, 1988, Bayou Interstate Pipeline System (Bayou) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, (Tariff) Sixth Revised Sheet No. 4 to be effective August 1, 1988.

Bayou states that the tariff sheets were filed pursuant to the Purchased Gas Cost Adjustments provision contained in section 15 of Bayou's tariff. A copy of the filing is being mailed to Bayou's jurisdictional sales customer and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211. All such motions or protests must be filed on or before June 27, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell

Acting Secretary.

[FR Doc. 88-13085 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-95-001]

Canyon Creek Compression Co.; Proposed Changes in FERC Gas Tariff

June 7, 1988.

Take notice that Canyon Creek Compression Company (Canyon) on May 31, 1988, filed under protest, proposed changes in its FERC Gas Tariff, Original Volume No. 1 and Original Volume No. 1A to become effective May 1, 1988.

Canyon states that the intent of this filing is to revise Canyon's rates originally submitted on March 31, 1988, in the subject docket (Original Filing) to reflect the changes ordered by the Commission in its "Order Accepting for Filing and Suspending Tariff Sheets Subject to Refund and Conditions and Establishing Hearing" issued on April 29, 1988, in the above referenced docket (April 29 Order).

Canyon also states that the instant compliance filing is being made under protest and is in no way intended to represent agreement by Canyon with any of the principles and justification attending the April 29 Order. Nor is this filing to be construed as a waiver of any rights Canyon may have with proceedings in connection therewith.

A copy of this filing was mailed to Canyon's customers and all parties set out on the official service list at Docket No. RP88-95-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before June 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13152 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ88-2-2-000 and TA88-1-2-006]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

June 6, 1988.

Take notice that on May 31, 1988, East Tennessee Natural Gas Company (East Tennessee) hereby files ten copies of the following revised tariff sheets to Original Volume No. 1 its FERC gas Tariff to be effective July 1, 1988:

Thirty-Ninth Revised Sheet No. 4
Substitute Thirty-Seventh Revised Sheet No. 4
Replacement Thirty-Fourth Revised Sheet No. 4

East Tennessee states that the purpose of these revisions is to reflect PGA Rate Adjustments pursuant to section 22.2 of the General Terms and Conditions of East Tennessee's Tariff. Thirty-Ninth Revised Sheet No. 4 reflects a current adjustment for the quarterly period July-September, 1988. Substitute Thirty-Seventh Revised Sheet No. 4 and Replacement Thirty-Fourth Revised Sheet No. 4 reflect adjustments to East Tennessee's previously effective Demand D-1 and D-2 rates pursuant to the Commission's Order on April 29, 1988, in Docket No. TA88-1-2-005.

East Tennessee states the Current Purchased Gas Cost Rate Adjustments reflected on Thirty-Ninth Revised Sheet No. 4 consist of a 26.66 cents per dekatherm adjustment applicable to the gas rate, a 6.26 cents per dekatherm adjustment applicable to Rate Schedule SWS, and a 3 cents per dekatherm adjustment applicable to the D_1 component of the demand rates.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1987)). All such motions or protests to intervene in Docket No. TQ88-2-2-000 should be filed on or before June 13, 1988. All such motions or protests to intervene in Docket No. TA88-1-2-006 should be filed on or before June 27, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13086 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-44-004]

El Paso Natural Gas Co.; Proposed Change In Rates

June 6, 1988.

Take notice that El Paso Natural Gas Company ("El Paso"), on June 1, 1988, tendered for filing revised tariff sheets to its FERC Gas Tariffs, First Revised Volume No. 1, Original Volume No. 1-A, Third Revised Volume No. 2 and Original Volume No. 2A to reflect certain modifications to the rates suspended until July 1, 1988 at Docket No. RP88-44-000.

El Paso states that the rates set forth on the revised tariff sheets differ from the rates in the compliance filing (revised) filed March 6, 1988 at Docket No. RP88-44-000 in that such rates have been adjusted for the removal of the take-or-pay buyout and buydown costs, an increase in throughput quantity, and certain other adjustments.

El Paso states that in a related filing, El Paso filed a series of inter-related and inter-dependent documents which constitute El Paso's Open Access Plan ("Plan"). Alternate tariff sheets included in the filing reflect certain further adjustments to El Paso's rates based on the proposals set forth in such Plan.

El Paso states that a principal element of its plan is its proposal to recover its take-or-pay buyout and buydown costs in accordance with Commission Order No. 500. Based on such filing, the tariff sheets tendered removed all of the buyout and buydown costs, including amortization, return and taxes, from its cost of service resulting in a reduction in the sales rate of $.2545 per dth. El Paso proposes to reflect this reduction in Docket No. RP88-44-000 rates irrespective of the effective date assigned to its Order No. 500 filing.

El Paso states that it has further reduced the proposed rates to reflect an increase in projected throughput

volumes from a level of 2,444 MDth/d reflected in the originally filed rates to the level of 2,794 MDth/d in proposed revised rates. Costs for both sales and transportation were reallocated to reflect such increased throughput, and rates were adjusted based on such allocated costs divided by the volumes for each sales and transportation rate schedule. In addition, all field transportation and production area service rates are further reduced to levels below those required to recover the allocated costs.

El Paso further states that it tendered alternate tariff sheets to reflect implementation of El Paso's Open Access Plan. El Paso is requesting an effective date of July 1, 1988 for the filings comprising its Plan. In the event the authorizations and effective date sought in such filing are granted, El Paso proposes to remove from the non-gas component of its sales rates those gas costs associated with its own cost-of-service production (RFX), and include those costs for recovery in the gas cost component of its sales rates on a unit of production basis through its Purchased Gas Cost Adjustment provision. In addition, El Paso proposes to implement the cost sharing policy adopted by Order No. 500 by providing (i) that El Paso will absorb 25 percent of its buyout and buydown costs (ii) that 25 percent of the jurisdictional portion of such costs will be included in a fixed take-or-pay cost charge to its sales customers and (iii) that the remaining 50 percent of such costs will be included in a surcharge applicable to sales and third-party transportation quantities transported by El Paso.

El Paso requested that the Federal Energy Regulatory Commission ("Commission") grant such waiver of its Regulations Under the Natural Gas Act as may be deemed necessary in order to permit effectiveness of the alternate tariff sheets and the rates set forth therein, on July 1, 1988, and appropriate waivers be granted. In the event the authorization for El Paso's Plan is not approved by July 1, 1988 El Paso requests the revised tariff sheets be placed in effect on July 1, 1988, and appropriate waivers be granted.

El Paso requested that the Commission grant any and all waivers of its rules, regulations and orders as may be necessary, specifically § 154.66 of its Regulations, so as to permit the tendered tariff sheets to become effective July 1, 1988, as provided for in the Commission's Regulations.

Copies of the filing were served upon all interstate pipeline system customers of El Paso, all interested state regulatory commissions and parties of record in Docket No. RP88-44-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 16, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13087 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-184-000]

El Paso Natural Gas Co; Proposed Changes In FERC Gas Tariff

June 6, 1988.

Take notice that El Paso Natural Gas Company ("El Paso"), on June 1, 1988, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. The proposed changes would add a Section 21, Take-or-Pay Buyout and Buydown Cost Recovery, to the General Terms and Conditions which would serve to establish the procedures by which El Paso will recover from its Customers, as prescribed by Order No. 500, a portion of the payments to its natural gas suppliers made in settlement of claims arising under its gas purchase agreements or to terminate or suspend such agreements (referred to herein as "buyout" or "buydown" payments or costs).

El Paso states that, as permitted by Order No. 500, the proposed tariff sheets reflect (i) the exclusion from rates and an absorption by El Paso of twenty-five percent (25%) of its buyout and buydown costs; (ii) inclusion of the jurisdictional portion of twenty-five percent (25%) of such costs in fixed charges (i.e., direct billing based on deficiency percentages) to its jurisdictional sales-for-resale customers; and (iii) inclusion of fifty percent (50%) of such cost in a surcharge applicable to all units of throughput (based on the projected throughput underlying the rates pending in Docket No. RP88-44-000 as adjusted by filing of same date under separate cover). No rate coverage under the provisions of Order No. 500 is sought or intended for buyout or buydown payments to affiliates. El Paso proposes that the direct billed charge and throughput charge be recovered over an amortization period of between three and five years, which may be subject to further adjustment for good cause shown as described in El Paso's filing.

El Paso states that this filing is one part of several being filed concurrently which comprise inter-related and inter-dependent components of El Paso's Open Access Plan.

El Paso requested that the Federal Energy Regulatory Commission ("Commission") grant any and all waivers of its rules, regulations and orders as may be necessary, specifically § 154.66 of its Regulations, so as to permit the tendered tariff sheets to become effective July 1, 1988, as provided for in the Commission's Regulations.

Copies of the filing were served upon all interstate pipeline system customers of El Paso and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 16, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13089 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-44-000, RP85-58-017 and CP88-203-000][1]

El Paso Natural Gas Co.; Informal Settlement Conference

June 6, 1988.

Take notice that an informal settlement conference will be convened in the above-referenced proceeding on June 21, 1988, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426.

The parties and the Commission Staff are invited to attend. Persons willing to become parties must move to intervene pursuant to the Commission's Regulations (18 CFR 385.214 (1985)) and have their motion granted.

For additional information, contact Cynthia A. Govan (202) 357-5330 and Hollis J. Alpert (202) 357-8460.

Lois D. Cashell,

Acting Secretary

[FR Doc. 88-13090 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

El Paso Natural Gas Co.; Proposed Tariff Change and Petition for Waivers

June 6, 1988.

Take notice that El Paso Natural Gas Company ("El Paso"), on June 1, 1988, filed a Notice of Proposed Tariff Change and Petition for Waivers to institute rate and tariff changes to complement other proposals El Paso filed concurrently in order to effectuate a comprehensive plan designed to permit El Paso to become a permanent open-access transporter with limited continuing merchant functions.

Specifically, El Paso requests waiver of § 154.305(d) of the Federal Energy Regulatory Commission's ("Commission") Regulations, Paragraph 19.7 of its FERC Gas Tariff, First Revised Volume No. 1, and any other applicable regulations and tariff provisions, such that El Paso may suspend billing of the otherwise applicable Account 191 surcharge effective on the first day of the first month following the issuance of an acceptable order approving El Paso's Gas Inventory Charge ("GIC") filing. El Paso further proposes that if the above requested waiver is granted, that El Paso be permitted, effective on that same date, to remove from the non-gas component of its sales rates those gas costs, associated with its Reserve for Exploration ("RFX") production, and include those costs for recovery in the gas cost component of its sales rates on a unit-of-production basis through its PGA. In connection therewith, El Paso tendered a *pro forma* tariff sheet which provides for the incorporation of the RFX costs into the defintion of costs to be recovered through the PGA mechanism.

El Paso requested waiver of the Commission's Regulations and its FERC Gas Tariff to permit the foregoing proposals to become effective on the same date that El Paso's GIC filing is approved.

Copies of the filing were served upon El Paso's interstate pipeline system sales customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 16, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Acting Secretary

[FR Doc. 88-13088 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-182-000]

Gas Research Institute; Annual Application

June 6, 1988.

Take notice that on June 1, 1988, the Gas Research Institute (GRI) filed herein an application requesting advance approval of its 1989-1993 Five-Year R&D Plan and 1989 R&D Program, and the funding of its R&D activities for 1989 pursuant to the Natural Gas Act and the Commission's Regulations thereunder, particularly 18 CFR 154.38(d)(5).

GRI states that its application demonstrates compliance with the Commission's Regulations, the requirements of Opinion No. 283, Opinion and Order Amending and Approving Gas Research Institute's 1988 Research and Development Program and Related Five-Year Plan for 1988-1992, Docket No. RP87-71-000, issued September 29, 1987, and the ongoing provisions of a Stipulation and Agreement reached by the parties to the proceedings in Docket No. RM77-14 and approved by the Commission in Opinion No. 11, Opinion and Order Approving the Initial Research Development and Demonstration Program of Gas Research Institute, Docket No. RM77-14, issued March 28, 1978. GRI proposes to incur contract obligations in 1989 totaling approximately $174,945,000. GRI proposes to spend in 1989 approximately $177,645,000 in actual cash outlays for the portion of contract obligations incurred in the past that will be due in 1989, and the portion of contract obligations incurred in 1989 that will be due in 1989. To fund its program, GRI's application seeks approval for the collection of $158,749,000 through jurisdictional rates and charges during the twelve (12) months ending December 31, 1989 to support GRI's R&D activities in 1989. The difference is proposed to be funded from a mostly jurisdictional end-of-year cash balance projected to be approximately $21,110,000 as of December 31, 1988. Applicant states that its application was filed in accordance with the provision of Order No. 566 which requires "RD&D organizations" to submit, annually, a five-year program plan at least 180 days prior to the commencement of the five-year period of the plan, which is scheduled to commence on January 1, 1989.

GRI states that the proposed unit cost of GRI's 1989 R&D Program is 1.51 cents per Mcf of equivalent, the same unit cost now in effect, and proposes that current tariffs pertaining to GRI funding be continued in effect through December 31, 1989. This Annual R&D Funding Unit is proposed to be applied to the services included in GRI's Program Funding Services in 1989 which include jurisdictional, direct sale and intrastate volumes of GRI's members and which are estimated to be 10,516.4 Bcf.

GRI states that last year the Commission in Opinion No. 283 directed GRI to fund a study with an appropriate research organization that would examine GRI's budget and program efforts, and to submit the study to the Commission as part of its application. GRI contracted with the National Academy of Science (NAS) to conduct the study. GRI states that an NAS report can be expected to be available on or about July 22, 1988. GRI states it intends to promptly submit the report to the Commission and to make it available to all interested persons, including the parties to this proceeding.

GRI's filing was accompanied by workpapers providing detail about its application. These workpapers are

[1] Docket No. CP88-203-000 has not been consolidated with Docket Nos. RP88-44-000 and RP85-58-017.

available for inspection in the Commission's Public Reference Branch.

In addition, take note that procedurally, the FERC staff will conduct an analysis of GRI's application and prepare a Commission Staff Report which will be served on all parties and filed with the Commission as a public document on July 29, 1988. Comments on the Staff Report, or other comments by all parties except GRI, should be filed with the Commission on or before August 15, 1988. GRI's reply comments should be filed on or before August 30, 1988. It should be noted that the Commission's Regulations (18 CFR 381.206) provided for a petition seeking advance Commission approval of rate treatment of RD&D expenditures will be determined and billed according to the procedures for direct billing set forth in 18 CFR 381.107.

Any person desiring to intervene to be heard, or to make any protest with reference to said application should, on or before June 27, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a comment, protest, or petition to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure and the Regulations under the Natural Gas Act (18 CFR 385.211 and 385.214). All comments or 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 proceedings. Any person wishing to become a party to this proceeding or to participate as a party in any hearing which might be held herein, other than those listed in the Appendix who are automatically entitled to participate, must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13091 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP88-20-000]

HPC Operating Inc. (Successor to HLH Petroleum Corp.); Petition To Reopen

Issued June 6, 1988.

Take notice that on May 3, 1988, HPC Operating, Inc. (HPC) filed a petition requesting that final well category determinations be reopened for the Louis Werner Sawmill Co. St. Regis Nos. 1 and 2 wells. Based on applications filed by HPC's predecessor operator, HLH Petroleum Corporation, the Texas Railroad Commission (Texas) determined that these wells, located in Panola County, Texas, qualified for the Natural Gas Policy Act Of 1978 (NGPA) section 102(c)(1)(C) status. HPC suspects that the applications inadvertently contained misstatements of material facts. To determine if its suspicions are true, HPC is conducting an investigation. HPC requests the Commission to reopen the well category determinations subject to the outcome of its investigation.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure, 18 CFR 385.214 and 385.211 (1987). All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, not later than 30 days following publication of this notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of the petition are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13092 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ88-2-5-000]

Midwestern Gas Transmission Co; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

June 7, 1988.

Take notice that on May 31, 1988 Midwestern Gas Transmission Company (Midwestern) hereby files ten copies of the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff, to be effective July 1, 1988:

Thirty-Sixth Revised Sheet No. 5
Alternate Thirty-Sixth revised Sheet No. 5
Second Revised Sheet No. 20
Sixth Revised Sheet No. 21

Midwestern states that the purpose of the filing is to reflect an increase of 44.85 cents per dkt applicable to the gas component of Midwestern's sales rates, a decrease of $2.18 applicable to the CD-1 D_1 demand rate and an adjustment of 7.42 cents applicable to the CD-1 D_2 demand rate. Midwestern states that Alternate Thirty-Sixth Revised Sheet No. 5 reflects a surcharge to amortize unrecovered gas costs, which Midwestern will implement effective July 1, 1988, if the Commission denies its request to change the amortization period required by § 154.310 of the Commission Regulations. Midwestern states that Revised Sheets No. 20 and 21 reflect minor modifications to its CD-1 Rate Schedule concerning operational coordination.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13153 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-25-003]

Mississippi River Transmission Corp.; Rate Change Filing

June 7, 1988.

Take Notice that on May 27, 1988, Mississippi River Transmission Corporation ("MRT") tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Tariff sheet	Proposed Effective Date
Substitute Eighth Revised Sheet No. 4A.	Mar. 1, 1988.
Substitute Ninth Revised Sheet No. 42.	Mar. 1, 1988.
Substitute Sixth Revised Sheet No. 50.	Jan. 1, 1988.

MRT states that the purpose of the filing is to comply with the conditions set forth in the Commission's May 19, 1988 order which required MRT to file revised tariff sheets to reflect any

changes in the take-or-pay amounts incurred from United Gas Pipe Line Company ("United") and to eliminate the references to the D–1 allocation methodology from its tariff.

MRT claims that the overall impact of the take-or-pay charges contained therein on MRT's jurisdictional customers is an annual decrease of $3.6 million in costs from that contained in MRT's March 30, 1988 filing in this docket. The annual fixed take-or-pay charges that MRT will incur from United have declined from $12.3 million to $7.8 million.

MRT requests waiver of any provisions of its FERC Gas Tariff and any Rules or Regulations of the Commission, including the notice requirements of § 154.22, which may be required to assure that the filed tariff sheets become effective as proposed.

MRT states that copies of its filing have been served on all jurisdictional customers and interested state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 27, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois Cashell,

Acting Secretary.

[FR Doc. 88–13154 Filed 6–9–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ88–2–16–000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

June 7, 1988.

Take notice that National Fuel Gas Supply Corporation ("National") on May 31, 1988, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, six copies of the following tariff sheet:

Fourteenth Revised Sheet No. 4.

National states that the purpose of the filing is to reflect the PGA rate changes in compliance with Order Nos. 483 and 483–A.

National states that Fourteenth Revised Sheet No. 4 reflects an overall decrease of 1.74 cents per Dth. The change results from a decrease in current purchased gas costs only.

The proposed effective date of the tariff sheet is July 1, 1988.

National states that copies of this filing were served upon the Company's jurisdictional customers and the regulatory commissions of the States of New York, Ohio, Pennsylvania, Delaware, and New Jersey.

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 Rule 214 of the Commission's Procedural Rules (18 CFR 385.214). All such petitions or protests should be filed on or before June 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–13155 Filed 6–9–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–179–000]

Northern Natural Gas Co.; Division of Enron Corp.; Notice of Filing

June 6, 1988.

Take Notice that on May 27, 1988, Northern Natural Gas Company, Division of Enron Corp. (Northern), tendered for filing to become a part of Northern Natural Gas Company's (Northern) F.E.R.C. Gas Tariff, Third Revised Volume No. 1,

First Revised Sheet No. 52g.2
First Revised Sheet No. 52g.3

Section 3 of Northern's Firm Deferred Delivery Rate Schedule (FDD–1) provides that Northern shall annually evaluate its estimated capability to provide such service and reflect any changes in the amount and length of such service by filing such changes with the Commission. Northern has evaluated its ability to provide service hereunder for the 1988/89 heating season and, accordingly, files the above tariff sheet to reduce the volumetric level of service available under Rate Schedule FDD–1 during the coming cycle year.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 13, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–13093 Filed 6–9–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–183–000]

Northern Natural Gas Co., Division of Enron Corp.; Filing

June 7, 1988.

Take notice that on May 31, 1988, Northern Natural Gas Company, Division of Enron Corp. (Northern), tendered for filing to become a part of Northern Natural Gas Company's (Northern) F.E.R.C. Gas Tariff, Original Volume No. 2,

First Revised Sheet No. 527

Northern states that this tariff sheet was filed to incorporate within Rate Schedule T–11 a Sept. 1, 1987 Amendment to Agreement executed by North Central Public Service Company, a Division of Iowa Public Service Company (North Central) and Northern which revised the method used to calculate the minimum annual bill. Northern proposes to reduce the minimum annual bill obligation of North Central by the equivalent volume of natural gas purchased on an interruptible basis at Janesville, Wisconsin by North Central under its CD–1 Service Agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13156 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ88-2-59-000]

Northern Natural Gas Co., Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

June 6, 1988.

Take notice that Northern Natural Gas Company, Division of Enron Corp. (Northern), on May 31, 1988, tendered for filing changes in its F.E.R.C. Gas Tariff, Third Revised Volume No. 1 (Volume No. 1 Tariff) and Original Volume No. 2 (Volume No. 2 Tariff).

Northern states that it is filing the revised tariff sheets to adjust its Base Average Gas Purchase Cost in accordance with the Quarterly PGA filing requirements codified by the Commission's Order Nos. 483 and 483-A. The instant filing reflects a Base Average Gas Purchase Cost of $1.5980 to be effective July 1, 1988 through September 30, 1988. Northern further states that it intends to use its flexibile PGA, as necessary, to reflect actual market conditions throughout this time period.

Copies of the filing were served upon the company's jurisdictional sales customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 13, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13094 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-181-000]

Sea Robin Pipeline Co.; Proposed Changes in FERC Gas Tariff

June 7, 1988.

Take notice that Sea Robin Pipeline Company (Sea Robin), on May 31, 1988, tendered for filing proposed rate changes to its FERC Gas Tarriff, Original Volume Nos. 1 and 2. The proposed rate changes are based on the twelve-month period ending February 29, 1988, as adjusted, for changes which are known and measurable through November 30, 1988. Overall revenues under the proposed tariff sheets are projected to be approximately $7,863,515 less than the revenues which would be generated on the same volumes at the rates currently in effect. Sea Robin requests an effective date of July 1, 1988.

Sea Robin states that the costs underlying the proposed rates have been classified and allocated and rates have been designed in accordance with modified fixed-variable principles. The transportation volumes included in the rate derivation reflect representative volume levels for Part 284 transportation. If further states that revenues attributable to transportation for Gulf Oil Corporation under Rate Schedule X-5 have been credited to the cost of service at the contract rate as in prior rate cases, pursuant to the Commission's Remand Order dated September 25, 1987 in Docket No. RP80-55-011 *et al.*, which reversed and remanded Opinion Nos. 227-A and 227-B.

Sea Robin proposes to utilize the current filing as its compliance with the requirements of § 154.303(e) of the Commission's regulations.

Copies of the filing have been served upon Sea Robin's jurisdictional customers and the Public Service Commission of the State of Louisiana.

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, 385.214). All such motions or protests should be filed on or before June 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13157 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ88-2-9-000 and TM88-1-9-000]

Tennessee Gas Pipeline Co.; Rate Change Under Tariff Rate Adjustment Provisions

June 6, 1988.

Take notice that on May 27, 1988, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following tariff sheets to its FERC Gas Tariff to be effective July 1, 1988:

Original Volume No. 2

Item A:
- Eighth Revised Sheet No. 5
- Seventh Revised Sheet No. 6

Second Revised Volume No. 1

Item B:
- Seventh Revised Sheet No. 20
- Fourth Revised Sheet No. 20A
- Seventh Revised Sheet No. 21

Item C:
- Second Revised Sheet Nos. 31 through 36

Tennessee states that the purpose of the revisions listed under items A and B is to reflect a Purchased Gas Adjustment to its rates consisting of a Current Adjustment to Gas Rates of 10.83 cents and a Current Adjustment to Demand Rates of 4 cents. The filing also reflects the removal from Gas and Demand Rates of Surcharges to Amortize Unrecovered Gas Costs previously implemented in its January PGA.

Tennessee states that the purpose of the revisions listed under Item C is to reflect direct billing of production related costs incurred by Tennessee pursuant to Order No. 94 and Order No. 473.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commisssions. Any persons 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, Washington DC 20426, in accordance with Rules 208 and 214 of the

Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 13, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-13095 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM88-1-29-000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

June 6, 1988.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on May 27, 1988 certain revised tariff sheets. Transco states that the revised tariff sheets reflect a storage "tracking" increase effective January 1, 1988 and storage "tracking" decreases effective February 1, 1988 and April 22, 1988 in accordance with Sections 26 of Transco's General Terms and Conditions. Section 26 provides for, among other things, changes in rates for storage service rendered under Transco's Rate Schedule S-2 to reflect changes in charges by Texas Eastern Transmission Corporation (Tetco) under Tetco's Rate Schedule X-28.

Transco states that as a result of Commission Order Accepting Compliance Filing, subject to Conditions dated Dec. 31, 1987 in Docket No. RP85-177, *et al.*, Tetco increased its rates applicable to X-28 service with an effective date of January 1, 1988. On February 8, 1988, the Commission clarified its December 31, 1987 order in the Docket No. RP85-177, *et al.* proceedings and severed and approved only those portions of the RP85-177 rate settlement pertaining to existing services.

Further, Transco states that on Feb. 19, 1988, Tetco filed in compliance with the Commission's Feb. 8, 1988 order which filing provided for, among other things, a rate decrease effective February 1, 1988 related to Texas Eastern's X-28 rate schedule. Subsequently, on March 24, 1988 Tetco Filed revised tariff sheets in Docket No. RP88-81 which reflected a reallocation of costs as part of the implementation of its transportation service pursuant to Subpart B of Part 284 of the Commission's Regulations. This reallocation of costs resulted in a decrease in charges applicable to service under Tetco's X-28 rate schedule. These rates were accepted, subject to refund, by Commission order dated April 22, 1988 to be effective on such date.

Transco states that it included in the instant filing Second Substitute Alternate Fifty-First Revised Sheet No. 12 to be effective May 1, 1988. The purpose of this sheet is to incorporate the aforementioned S-2 rate change effective April 22, 1988 with rate changes resulting from Transco's compliance filing of April 29, 1988 in Docket No. RP88-68 which rate changes are proposed to be effective May 1, 1988. Transco calculates the net increase in charges to be approximately $228,000 annually from the rates included in Transco's currently effective rates.

Transco states that copies of the filing are being mailed to each of its customers and interested State Commission's.

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 June 13, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88- 13096 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-180-000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

June 7, 1988.

Take notice that Trunkline Gas Company (Trunkline) on May 31, 1988 tendered for filing revised tariff sheets which reflect an increase in rates. Trunkline requests an effective date of July 1, 1988.

Trunkline states that the filed tariff sheets implement a general rate increase of $66 million annually. Trunkline states that the primary reason for the filing of these revised tariff sheets is to adjust its rates for sales and transportation services to bring the revenues to be derived therefrom into line with total costs. Trunkline noted that in traditional cost areas, management efficiency and cost control have reduced operating expenses from prior periods.

Trunkline states that the accompanying Statement of Nature, Reason and Basis for the Proposed Change in Rates accompanying its filing outlines the various factors which have given rise to the rate adjustments for sales services and transportation services to which this Section 4 filing applies.

Trunkline stated that the filing reflects representative projected throughput volume levels for all currently effective sales and transportation services.

Copies of this notice and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

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, 385.214). All such motions or protests should be filed on or before June 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-13158 Filed 6-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-49-001 and TA88-3-49-002]

Williston Basin Interstate Pipeline Co.; Tariff Change

June 7, 1988.

Take notice that on May 27, 1988, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, tendered for filing as part of its FERC Gas Tariff, tariff sheets to be effective as proposed.

Williston Basin states that in an effort to clear up the pending deferred account issues raised by the Commission in its April 29, 1988 order in Docket No. TA88–3–49–000, prior to its submitting its next regularly scheduled PGA filing to reflect deferred account calculations, it is filing a compliance filing in Docket Nos. TA88–1–49–001 and TA88–3–49–002. Williston Basin further states that the filing also includes revisions to rates originally filed in Docket Nos. TA88–2–49–000, RP87–115–000, TQ88–1–49–000 and TA88–4–49–000 to carry forward the revised gas costs developed in this compliance filing. Additionally, Williston Basin also submitted Substitute Fifth Revised Sheet No. 11 in Docket No. RP87–92–000 to reflect the Commission's Order No. 472–C issued in Docket Nos. RM87–3–019, *et al.*

Williston Basin states that with regard to the revised gas cost calculations submitted in Docket No. TA88–1–49–001, the effect is to decrease the Company's First Revised Volume No. 1 sales rates by 14.018 cents per Dkt and to decrease the Original Volume No. 2 Rate Schedule X–1 rate by 21.784 cents per Dkt as compared to the October 13, 1987 compliance rates effective September 28, 1987 in Docket No. TA87–4–49. It states that rate decreases relative to the original September 30, 1987 filing in Docket No. TA88–1–49 are 14.756 cents and 11.226 cents per Dkt, respectively.

Williston Basin states that with regard to the revised gas cost calculations submitted in Docket No. TA88–3–49–002, the effect of these tariff sheets is to increase the Company's First Revised Volume No. 1 sales Rate Schedules G–1 and SGS–1 relative to the original March 31, 1988 filing in Docket No. TA88–3–49 by 28.696 cents. It states that First Revised Volume No. 1 Rate Schedule E–1 and Original Volume No. 2 Rate Schedule X–1 are unchanged from the original March 31, 1988 filing in Docket No. TA88–3–49.

Any persons 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). 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 to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection. All such motions to intervene or protests are due on or before June 27, 1988.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–13159 Filed 6–9–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA88–4–49–000]

Williston Basin Interstate Pipeline Co.; Purchased Gas Cost Adjustment Filing

June 7, 1988.

Take notice that on May 31, 1988, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, North Dakota 58501, tendered for filing as part of its FERC Gas Traiff the following tariff sheets:

First Revised Volume No. 1

Eleventh Revised Sheet No. 10

Original Volume No. 2

Thirteenth Revised Sheet No. 10

Williston Basin states that it also filed, pending the resolution of Williston Basin's Request for Rehearing filed May 27, 1987 in Docket No. TA88–3–49–000, the following alternate tariff sheet as part of its FERC Gas Tariff to reflect the proposed twelve month surcharge amortization originally requested in Docket No. TA88–3–49, filed March 31, 1988:

First Revised Volume No. 1

Alternate Eleventh Revised Sheet No. 10

The Company requests an effective date for the tariff sheets of August 1, 1988.

Williston Basin states that Eleventh Revised Sheet No. 10 and Alternate Eleventh Revised Sheet No. 10 (First Revised Volume No. 1) reflect an increase in the Cumulative Gas Cost Adjustment for Rate Schedules G–1, SGS–1 and E–1 of 6.137 cents per Dkt as compared to the Cumulative Gas Cost Adjustment contained in the Company's May 2, 1988 quarterly PGA filing in Docket No. TQ88–1–49–000. These changes reflect a cumulative gas cost adjustment from the average base cost of purchased gas of a negative 44.772 cents per Dkt as supported in the Schedule D–1 workpapers.

Williston Basin states that it filed Thirteenth Revised Sheet No. 10 (Original Volume No. 2) reflecting a 6.137 cent per Dkt increase in the cumulative gas cost adjustment for Rate Schedule X–1 from the Cumulative Gas Cost Adjustment contained in the Company's May 2, 1988 quarterly PGA filing in Docket No. TQ88–1–49–000.

Pursuant to the Commission's Regulations and the terms of Williston Basin's Purchased Gas Adjustment Provision, the gas purchases reflected in this filing have been priced at the rates to be paid during the PGA effective period. These amounts are subject to future revision upon resolution of pending litigation an/or other disputes.

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). 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 part to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection. All motions to intervene or protests are due on or before June 27, 1988.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–13097 Filed 6–9–88; 8:45 am]

BILLING CODE 6717–01–M

Office of Conservation and Renewable Energy

Development of Advanced Process Technologies for the Steel Industry

AGENCY: Department of Energy.

ACTION: Notice of program interest.

SUMMARY: The Department of Energy (DOE), Office of Industrial Programs, is interested in receiving unsolicited proposals for research and development of innovative process technologies for the steel industry. Laboratory or bench-scale research, which has the potential for continuing through pilot-scale developement, is desired. Any resulting awards will be made under the Steel Initiative Program, the goal of which is the development of new technologies that increase significantly the energy efficiency and overall productivity of processes that produce steel. Technologies of interest are those which improve the competitiveness of the U.S. steel industry through reduction, elimination, or replacement of entire unit operations. Incremental improvements to existing operations are neither sought nor encouraged. Unsolicited proposals will be evaluated for technical merit, the concept's applicability to the U.S. domestic steel industry, industry's commitment to the project as evidenced by the cost sharing

proposed (amount, type, and source), the appropriateness of the proposed project structure as shown in the Statement of Work and the management plan, and the research capabilities and qualifications of the proposer(s). DOE will select only proposals which are meritorious, based on the above evaluation, and which represent a unique or innovative idea, method, or approach.

This notice does not commit the Government to make an award. A decision to award will be determined through evaluation of proposals received and the availability of funds.

Industrial concerns or partnerships, including partnerships between industry and National Laboratories, universities, and non-profit organizations, are encouraged to submit unsolicited proposals.

Proposals must contain the following information: (1) A description of the proposed research; (2) a critical review of existing and emerging technologies on a worldwide basis that are or could be competitive with the proposed technology, which concludes that the proposed research is timely, does not duplicate work being pursued elsewhere, and is significantly more competitive (in terms of potential product value improvement) than existing or emerging technology; (3) an economic evaluation indicating the potential for at least a 10% improvement in product value due to a reduction in manufacturing costs and improvement in product characteristics, and an estimate of economic benefit to the overall U.S. steel industry; (4) an estimate of the potential energy savings attributable to the implementation of the proposed technology; (5) a Management Plan including a Statement of Work, project schedule, work breakdown structure, task assignments, spending plan, milestones, and decision points; (6) industry cost-sharing commitments, by Phase, and a description of the form of cost-sharing (cash, in-kind, etc.); Steel Initiative legislation requires that total cost-sharing must be at least 30 percent of the funding provided by DOE; (7) an estimate of the total R&D costs required to reach the stage of technology development at which Government funding will no longer be required, including a breakdown by type of cost and by task for the required federal funds and total manpower breakdown by task; (8) evidence and a schedule showing that the proposed technology has the potential for commercialization within ten years; and (9) the qualifications and capabilities of the proposing organization(s) and individuals responsible for performing the work. Additional information may be subsequently requested by DOE during review of submitted proposals. Standard Form (SF) 424 and DOE Form 1600.5, "Assurance of Compliance", must be executed prior to any award.

ADDRESS: Each unsolicited proposal submitted must be physically separate from any other proposals submitted. Five (5) copies of each proposal, including the signed original, should be submitted to: U.S. Department of Energy, Office of Industrial Programs, CE–142, Room 5F–034, 1000 Independence Avenue SW., Washington, DC 20585. Attn: Mr. W.E. Eckhart, Program Manager.

Questions relating to this NPI should be directed to the above address or to Mr. Eckhart, at (202) 586–8668. Proposers should become familiar with the Steel Initiative Management Plan, which may be obtained from Mr. Eckhart.

DOE reserves the right to support or not support any or all proposals. DOE assumes no responsibility for any costs associated with proposal preparation. Detailed information concerning assistance policy and procedures is contained in the Department of Energy Assistance Regulations, 10 CFR Part 600, copies of which are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

DATES: This notice is effective until May 1, 1989. DOE will evaluate the unsolicited proposals submitted in response to this notice prior to this date, and may extend the effective period depending on the results of those evaluations.

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

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 88–13140 Filed 6–9–88; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed During Week of April 22 Through April 29, 1988

During the Week of April 22 through April 29, 1988, the appeals and applications for 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.

June 3, 1988.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Apr. 22 through Apr. 29, 1988]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 17, 1987	Economic Regulatory Administration, Washington, DC.	KRZ–0522	Interlocutory. *If granted:* Russell B. Newton, Jr., Larry D. Delpit and Conald M. LeDoux would be joined to a Proposed Remedial Order issued to Kern Oil & Refining Company, Case No. KRZ–0522.
Apr 6, 1988	Pyrofax/Wise Oil & Fuel, Hardin, KY	RR277–2	Request for Modification/Recession. *If granted:* The March 25, 1988 Decision and Order issued to Wise Oil & Fuel (Case No. RF277–11) regarding the firm's application in the Pyrofax refund proceeding would be modified.
Apr 25, 1988	Amoco/Colorado, Denver, CO	RM251–109	Request for Modification/Recession. *If granted:* The January 7, 1987 Decision and Order issued to Colorado (Case No. RQ251–336) regarding the State's second stage refund application in the Amoco II refund proceeding would be modified.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Apr. 22 through Apr. 29, 1988]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 25, 1988	Glen Milner, Seattle, WA	KFA-0183	Appeal of an Information, Request Denial. *If granted:* The April 5, 1988 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and Glen Milner would receive access to a Joint Nuclear Weapons Publications System Publication entitled "TP-45-51A", in its entirety.
Apr. 25, 1988	Marathon/Township Oil Co., Washington, DC	RF250-4	Request for Modification/Recession. *If granted:* The December 18, 1987 Decision and Order issued to Township Oil Company (Case No. RF250-2733) regarding the firm's application in the Marathon Oil refund proceeding would be modified.
Apr. 25, 1988	Mobil/Farmers Union Central Exchange, St. Paul, MN.	RR225-26 RR225-27 RR225-28 RR225-29	Requests for Modification/Recession. *If granted:* The March 18, 1988 Decision and Order issued to Farmers Union Central Exchange (Case Nos. RF225-5291, RF225-5292, RF225-5293 & RF225-10690) regarding the firm's applications in the Mobil Oil refund proceeding would be modified.
Apr. 26, 1988	Petroleum Heat/Catanzaro Oil & Heating, Wappingers Falls, NY.	RR285-1	Request for Modification/Recession. *If granted:* The April 18, 1988 Decision and Order issued to Catanzaro Oil & Heating Company (Case No. RF285-12) regarding the firm's application in the Petroleum Heat & Power Company refund proceeding would be modified.
Apr. 28, 1988	Citizens Gas & Coke Utility, Indianapolis, IN	KFR-0044	Request for Modification/Recession. *If granted:* The April 8, 1988 Decision and Order issued to Citizens Gas & Coke Utility (Case No. RS272-7233) regarding the firm's application for refund in the crude oil refund proceeding would be modified.
Apr. 28, 1988	Economic Regulatory Administration, Washington, DC.	KRZ-0082	Interlocutory. *If granted:* The Office of Hearings and Appeals would clarify the method of computing interest on the overcharges determined in the April 1, 1988 Remedial Order issued to Thomas P. Reidy, Inc.
Apr. 29, 1988	Carbonit Houston, Inc. and Richard W. Johnson, Houston, TX.	KRD-0620	Motion for Discovery. *If granted:* Discovery would be granted to Carbonit Houston, Inc. and Richard W. Johnson in connection with the Statement of Objections submitted by the firm in response to a Proposed Remedial Order (Case No. KRO-0620).
Apr. 29, 1988	Jeff Nesmith, Washington, DC	KFA-0184	Appeal of an Information Request Denial. *If granted:* The March 29, 1988 Freedom of Information Request Denial issued by the Superconducting Super Collider (SSC) Site Task Force would be rescinded, and Jeff Nesmith would receive access to information regarding site proposals for the SSC.

REFUND APPLICATIONS RECEIVED

[Week of April 22 through April 29, 1988]

Date	Name of Firm	Case No.
04/25/88	Tri-County Gas Company	RF253-53
04/25/88	Baker Propane Company	RF253-54
04/25/88	Garstang Gas Company	RF253-55
04/25/88	MFA Oil Company	RF253-56
04/26/88	DeFelice Maine	RF305-7
03/10/88	Northern Petroleum, Inc	RF265-2631
04/26/88	Delta Marina, Inc	RF305-8
05/05/87	Davis Oil Company	RF225-11022
04/29/88	Suburban L-P Gas Company, Inc	RF225-11023
04/29/88	Plymouth Oil, Inc	RF250-2745
04/28/88	Kenneth E. Nylen	RF265-2633
04/28/88	Charles Van Blarcom	RF265-2634
04/27/88	Propane Service of Crete, Inc	RF265-2632
04/26/88	Odessa L.P.G. Transport, Inc	RF299-84
04/24/88	Vickers/Iowa	RQ1-449
04/22/88	Vickers/Texas	RQ1-450
04/22/88 thru 4/29/88	Crude Oil Refund Applications Received	RF272-48624 thru RF272-49226
4/22/88 thru 4/29/88	Gulf Oil Refund Applications Received	RF300-6468 thru RF300-6550

[FR Doc. 88-13142 Filed 6-9-88; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed During Week of April 29 Through May 6, 1988

During the Week of April 29 through May 6, 1988, the applications 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 of 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.

June 3, 1988.

REFUND APPLICATIONS RECEIVED

[Week of Apr. 29 through May 6, 1988]

Date	Name	Case No.
05/23/86	Girling & Coutts	RF225-11024
11/24/87	Harper Propane Service	RF253-57
02/05/88 thru 5/6/88	Atlantic Richfield (ARCO), Refund Applications Received	RF304-1 thru RF304-2970
04/29/88 thru 05/06/88	Gulf Oil Refund Applications Received	RF300-6551 thru RF300-55534
04/29/88	Flame Gas Company	RF308-1
04/29/88 thru 5/6/88	Crude Oil Refund Applications Received	RF272-49227 thru RF272-49280 and RF272-54939 thru RF272-55534
05/02/88	Mobil Oil Corporation	RF305-9
05/02/88	Sears, Roebuck & Company	RF299-85
05/03/88	Ocean Drilling	RF305-10
05/03/88	Outrider Truck Stop	RF265-2635 RF265-2636
05/06/88	Robert South	RF306-2

[FR Doc. 88-13143 Filed 6-9-88; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed During Week of May 6 Through May 13, 1988

During the Week of May 6 through May 13, 1988, the appeals and applications for 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.

June 3, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 6 through May 13, 1988]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 12, 1988	Consolidated Edison Company of New York, Inc., et al., Philadelphia, Pennsylvania.	KFS-0009	Request for Stay. *If granted:* The March 15, 1988, Decision and Order issued to Shell Oil Company (Case No. KFX-0048) would be stayed regarding disbursement of crude oil refunds.
Apr. 19, 1988	Kenneth Walker, Abilene, Texas	KRZ-0085	Interlocutory. *If granted:* The March 3, 1988 Decision and Order issued to Kenneth Walker, Southwestern States Marketing and the Economic Regulatory Administration would be vacated and the remedial order proceeding (Case No. HRO-0258) transferred to another tribunal.
May 8, 1988	Economic Regulatory Administration, Washington, DC.	KRD-0032	Motion for Discovery. *If granted:* Discovery would be granted to the Economic Regulatory Administration, in connection with a Proposed Remedial Order issued to Gear Petroleum Company (Case No. HRO-0144).
May 8, 1987	Economic Regulatory Administration, Washington, DC.	KRZ-0083	Interlocutory. *If granted:* The Economic Regulatory Administration would be permitted to withdraw the affidavit of Richard Martin and substitute in its place the affidavit of Kishore Parekh, in the Gear Petroleum proceeding (Case No. HRO-0144).
May 9, 1988	Texas, Austin, Texas	KEG-0033	Petition for Special Redress. *If granted:* The Office of Hearings and Appeals would review the proposed expenditures for Stripper Well funds which were disapproved by the Assistant Secretary for Conservation and Renewable Energy.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of May 6 through May 13, 1988]

Date	Name and location of applicant	Case No.	Type of submission
May 9, 1988	U.A. Local Union No. 412, Albuquerque, New Mexico.	KFA-0185	Appeal of an Information Request Denial. *If granted:* The April 8, 1988 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded and the U.A. Local Union No. 412 would receive access to information on payroll reports of Cobb Mechanical for a project at the Los Alamos National Labs.
May 11, 1988	Mississippi, Jackson, Mississippi	KEG-0034	Petition for Special Redress. *If granted:* The Office of Hearings and Appeals would review the proposed expenditures for Stripper Well funds which were disapproved by the Assistant Secretary for Conservation and Renewable Energy.
May 12, 1988	William A. Hewgley, Kingston, Tennessee	KFA-0186	Appeal of an Information Request Denial. *If granted:* The April 21, 1988, Freedom of Information Request Denial issued by Mr. John C. Layton, Department of Energy (DOE), would be rescinded, and Mr. Hewgley would receive access to certain DOE information.
May 13, 1988	Decker & Hallman, Atlanta, Georgia	KFA-0187	Appeal of an Information Request Denial. *If granted:* The April 15, 1988 Freedom of Information Request Denial issued by the Office of Oil and Gas, Energy Information Administration, would be rescinded and Decker and Hallman would receive access to a list of all respondents to the EIA-782B survey "Reseller/Retailers' Monthly Petroleum Product Sales Report."
May 13, 1988	Economic Regulatory Administration, Washington, DC.	KRZ-0064	Interlocutory. *If granted:* The Office of Hearings and Appeals would impose sanctions against Kenneth Walker for his failure to comply with the March 3, 1988 evidentiary hearing order (Case No. KRX-0042).

Date received	Name of refund proceeding/name of refund applicant	Case number
5/6/88	Belridge/Hawaii	RQ8-451
5/11/88	National Helium/Ohio	RQ3-452
5/6/88 thru 5/13/88	Crude oil refund applications received	RF272-55535 thru RF272-56224
5/6/88 thru 5/13/88	Gulf Oil refund applications received	RF300-6841 thru RF300-6772
5/6/88 thru 5/13/88	ARCO refund applications received	RF304-2971 thru RF304-3026
5/10/88	Plaza Skelly	RF265-2637
5/10/88	Rays Skelly Station	RF265-2638
5/10/88	Buras Fuel Dock	RF305-11
5/16/88	Ray Summers, Inc	RF265-2643
5/16/88	S & M Gas Service	RF265-2644
5/13/88	M & W Propane Company, Inc	RF265-2639
5/13/88	Triple H Truck Stop	RF265-2640
5/13/88	Triple H Truck Stop	RF265-2641
5/13/88	Fortmeyer Electric and Gas	RF265-2642

[FR Doc. 88-13144 Filed 6-9-88; 8:45 am]
BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $19,824.44 obtained as a result of the Consent Order which the DOE entered into with Pedersen Oil, Inc., a reseller-retailer of petroleum products located in Silverdale, Washington. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the Federal Register and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to case number HEF-0147.

FOR FURTHER INFORMATION CONTACT: Matthew Paul, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distibute to adversely affected parties $19,824.44 plus accrued interest obtained by the DOE under the terms of a Consent Order entered into with Pedersen Oil, Inc. Pedersen entered into the Consent Order in order to settle its potential civil liabilities arising from an ERA audit of the firm's motor gasoline pricing practices during the peroid May 1, 1979 through September 30, 1979.

OHA has tentatively determined that a portion of the consent order funds should be distributed to firms and individuals that bought motor gasoline form Pedersen during the consent order period. In order to obtain a refund, each claimant will generally be required to

submit a schedule of its monthly purchases of motor gasoline from Pedersen and to demonstrate that it was injured by Pedersen alleged regulatory violations. A claimant identified by the ERA during its audit of Pedersen will not be required to submit the above-referenced purchase volume information. The specific requirements for proving injury are set forth in the following Proposed Decision and Order. Applications for Refund should not be filed at this time. Appropriate public notice will be given when submission of claims is authorized.

Residual funds in the Pedersen escrow account will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. No. 99–509, Title III.

Any member of the public may submit written comments regarding the proposed refund procedures. Such parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: June 3, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order; Implementation of Special Refund Procedures

Name of Firm: Pedersen Oil, Inc.
Date of Filing: October 13, 1983
Case Number: HEF–0147

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. On October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a Consent Order entered into with Pedersen Oil, Inc. (Pedersen).

I. Background

Pedersen was a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31, and was located in Silverdale, Washington. A DOE audit of Pedersen's records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR Part 212, Subpart F. More specifically, the audit revealed that between May 1, 1979 and September 30, 1979, Pedersen may have violated the DOE's pricing regulations with respect to its sales of motor gasoline.

In order to resolve its potential civil liabilities arising from the ERA's audit, Pedersen entered into a Consent Order with the DOE on October 15, 1981. The Consent Order refers to ERA's allegations of overcharges, but does not find that any violations occurred. In addition, the Consent Order states that Pedersen does not admit any such violations.

Under the terms of the Consent Order, Pedersen was required to deposit $23,617 into an escrow account for ultimate distribution by the DOE.[1] On May 11, 1982, Pedersen made a deposit of $9,602.44, its only payment into the account. Since that payment was made, Pedersen's assets have been liquidated and a successor firm is also in bankruptcy. Therefore, no further payments are expected. Pedersen, however, was eligible for a refund of $10,222 in a proceeding instituted by OHA to distribute funds remitted to the DOE by the Mobil Oil Corporation. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). Because of Pedersen's outstanding obligation to the DOE under the terms of its Consent Order, OHA transferred the full amount of Pedersen's refund in the Mobil proceeding to the Pedersen consent order fund. *Mobil Oil Corporation/National Acceptance Company of California*, 16 DOE ¶ 85,554 (1987). The Pedersen fund now contains $19,824.44 in principal, or 84% of the amount Pedersen was required to deposit under the terms of the Consent Order. This decision concerns the establishment of procedures for the distribution of the funds in the Pedersen escrow account. Comments are solicited on these proposed procedures.

[1] The actual settlement between Pedersen and the DOE totaled $25,000. Of that sum, Pedersen made direct payments totaling $1,383 to the following end-user customers, all located in Tacoma, Washington: Barbie Lumber, Erdahl Trucking, Heinke Painting, Baxter Manufacturing, Jim Lemon's Doors and Cabinets, United Services, Allstate Elevator and Time D.C., Inc. These direct refunds were based upon the ERA's calculations of Pedersen's alleged overcharges. Because these firms have already received refunds for the matters settled by the Pedersen Consent Order, they will not be eligible for a further refund in this proceeding. The balance of the settlement amount, $23,617, was to be deposited into an escrow account for ultimate distribution by the DOE.

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who may have been injured by alleged regulatory violations or to determine the amount of such injuries. A more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds is set forth in the cases of *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

In keeping with the goals of the Subpart V regulations, we will attempt to provide refunds to claimants who demonstrate that they were injured by Pedersen's alleged overcharges in its sales of motor gasoline during the May 1, 1979 through September 30, 1979 consent order period. Residual funds in the Pedersen escrow account will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), Pub. L. No. 99–509, Title III. *See* 51 FR 43964 (December 5, 1986).

A. Calculation of Refund Amounts

The first step in the refund process is the calculation of an applicant's potential refund. To facilitate this process, we intend to rely, in part, on the information gathered by the ERA during its audit of Pedersen. *See, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984) *(Marion)*. The ERA identified 20 firms that were allegedly overcharged by Pedersen and calculated the amount of the alleged violations. Based on this information, we have calculated potential refunds for each of these firms. The firms, together with their potential refunds, are listed in the Appendices to this Decision. The total amount of the Pedersen settlement allocated to the ERA-identified purchasers is $11,046.

The ERA specifically noted, however, that it was unable to identify all of the customers whom Pedersen allegedly overcharged. In order to determine the potential refunds for these purchasers, we propose to adopt a volumetric refund presumption. This presumption assumes that Pedersen's alleged overcharges were spread evenly over all of the gallons of motor gasoline that Pedersen sold during the consent order period.

Under the volumetric presumption, the potential refund for a previously

unidentified claimant will be calculated by multiplying the number of gallons of motor gasoline that it purchased from Pedersen during the consent order period times a volumetric factor of $0.0025 per gallon.[2] In addition, successful claimants will receive proportionate shares of the interest that has accrued on the Pedersen escrow account. The total amount of the Pedersen consent order funds alloted to unidentified claimants is $8,792.[3]

The volumetric refund presumption is rebuttable. Because we realize that the impact on an individual claimant may have been greater than its potential refund calculated using the volumetric methodology, a claimant may submit evidence detailing the specific alleged overcharge that it incurred in order to be eligible for a larger refund. *See Standard Oil Co. (Indiana)/Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984).

As in previous cases, only claims for at least $15 in principal will be processed. This minimum has been adopted because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982); *see also* 10 CFR § 205.286(b). If an applicant's potential refund is calculated using the volumetric methodology, it must have purchased at least 5,800 gallons of Pedersen motor gasoline in order for its claim to be considered.

B. Determination of Injury

Once a claimant's potential refund has been calculated, we must determine whether it was injured by its purchases from Pedersen, *i.e.*, whether it was forced to absorb the alleged overcharges. Based on our experience in numerous Subpart V proceedings, we propose to adopt certain presumptions concerning injury in this case. An applicant that is not covered by one of these presumptions must demonstrate injury in accordance with the non-presumption procedures outlined in the latter part of this Decision.

[2] Because we were unable to determine the number of gallons of motor gasoline that Pedersen sold to its customers who received direct refunds, *see* supra note 1, and to the 20 ERA-identified purchasers, we computed the volumetric factor by dividing $21,207.44 (the $19,824.44 deposited into the Pedersen escrow, plus the $1,353 Pedersen paid out in direct refunds) by 8,581,892, the total number of gallons of motor gasoline sold by the firm during the consent order period.

[3] The ERA allocated $13,150 of the Pedersen settlement to identified purchasers and the remainder of the settlement, $10,467, to unidentified end-users. Because the Pedersen escrow account contains only 84% of the principal specified in the Consent Order, we reduced these amounts accordingly.

1. *Presumptions Concerning Injury;* The presumptions we plan to adopt in this case are designed to allow claimants to participate in the refund process without incurring inordinate expenses, and to enable OHA to consider the refund applications in the most efficient way possible. We will presume that end users of Pedersen motor gasoline, certain types of regulated firms, and cooperatives were injured by their purchases from Pedersen. In addition, we will presume that resellers and retailers of Pedersen gasoline submitting small claims were injured by their purchases. On the other hand, we will presume that resellers and retailers that made spot purchases of Pedersen motor gasoline and those who sold it on consignment were not injured by their purchases. Each of these presumptions is listed below, along with the rationale underlying its use.

a. End Users; First, in accordance with prior Subpart V proceedings, we will presume that end-users, *i.e.*, ultimate consumers of Pedersen motor gasoline whose businesses are unrelated to the petroleum industry, were injured by the firm's alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the alleged overcharges on the final prices of goods and services produced by members of this group would be beyond the scope of a special refund proceeding. *See Marion Corp.*, 12 DOE ¶ 85,014 (1984) and cases cited therein. Therefore, end-users need only document their purchase volumes of Pedersen motor gasoline to demonstrate that they were injured by the alleged overcharges.

b. Regulated Firms and Cooperatives; Second, public utilities, agricultural cooperatives, and other firms whose prices are regulated by government agencies or cooperative agreements do not have to submit detailed proof of injury. Such firms routinely would have pased through price increases to their customers. Likewise, their customers would share the benefits of cost decreases resulting from refunds. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,538 (1982); *Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,244 (1982). Such firms applying for refunds should certify that they will pass through any refund received to their customers and should explain how they will alert the appropriate regulatory body or membership group to monies received. Purchases by cooperatives that were subsequently resold to nonmembers will not be covered by this presumption.

c. Reseller and Retailer Small Claims; Third, we will presume that a reseller or a retailer seeking a refund of $5,000 or less, excluding accrued interest, were injured by Pedersen's pricing practices. Without this presumption, such an applicant would have to gather records dating as far back as 1973 in order to demonstrate that it absorbed Pedersen's alleged overcharges. The cost to the applicant of gathering this information, and to OHA of analyzing it, could exceed the actual refund amount. Therefore, a small claimant must only document the volumes of motor gasoline it purchased from Pedersen in order to demonstrate injury. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984). ERA-identified resellers and retailers seeking small claims refunds have to submit only a statement verifying their purchases from Pedersen and indicating their willingness to rely on the information contained in the ERA audit files. Resellers and retailers of Pedersen motor gasoline that are seeking refunds in excess of $5,000 must follow the procedures that are outlined below in Section 2.

d. Spot Purchasers; Fourth, resellers and retailers that were spot purchasers of motor gasoline from Pedersen, *i.e.*, made only sporadic, discretionary purchases, are presumed not to have been injured, and consequently, generally will be ineligible for refunds. The basis for this presumption is that a spot purchaser tended to have considerable discretion as to where and when to make a purchase, and therefore, would not have made a purchase unless it was able recover the full amount of its purchase price from its customers, including any alleged overcharges included in its costs. *See Vickers* at 85,396–97. A spot purchaser can rebut this presumption by demonstrating that its base period supply obligation limited its discretion in making the purchases and that it resold the product at a loss that was not subsequently recouped. *See, e.g., Saber Energy, Inc./Mobil Oil Corp.*, 14 DOE ¶ 85,170 (1986).

e. Consignees; Finally, we propose to adopt the presumption that consignees of Pedersen motor gasoline were not injured by the firm's alleged pricing violations. *See, e.g., Jay Oil Co.*, 16 DOE ¶ 85,147 (1987). A consignee agent is an entity that sold products pursuant to an agreement whereby its supplier established the prices to be charged by the consignee and compensated the consignee with a fixed commission

based upon the volume of products that it sold. A consignee may rebut the presumption of non-injury by demonstrating that its sales volumes and corresponding commission revenues declined due to the alleged uncompetitiveness of Pedersen's pricing practices. *See Gulf Oil Corp./C.F. Canter Oil Co.*, 13 DOE ¶ 85,388 at 88,962 (1986).

2. Non-Presumption Demonstration of Injury; A reseller or retailer that claims a refund in excess of $5,000 will be required to demonstrate its injury. There are two aspects to such a demonstration. First, a firm is required to provide a monthly schedule of its banks of unrecouped increased products costs for each grade of motor gasoline that is purchased from Pedersen. Cost banks should cover the period May 1, 1979, through July 15, 1979, for retailers, and April 30, 1980, for resellers of Pedersen motor gasoline.[4] If a firm no longer has records of contemporaneously calculated cost banks for a particular grade of motor gasoline, it may approximate those banks by submitting the following information regarding its purchases of that product from all of its suppliers:

(1) The weighted average gross profit margin that the firm received for the product on May 15, 1973;

(2) A monthly schedule of the weighted average gross profit margins that it received for the product during the period, November 1, 1973, through July 15, 1979, for retailers and April 30, 1980, for resellers; and

(3) A monthly schedule of the firm's sales of the product during the period November 1, 1973, through July 15, 1979, for retailers and April 30, 1980, for resellers.

The existence of banks of unrecovered increased product costs that exceed an applicant's potential refund is only the first part of an injury demonstration. A firm must also show that market conditions forced it to absorb the alleged overcharges. Generally, we will infer this to be true if the prices the applicant paid Pedersen were higher than average market prices for the same level of distribution.[5]

[4] We generally require applicants to submit cost banks that continue until a product's price decontrol date. Retailers and resellers of motor gasoline, however, were only required to maintain banks through July 15, 1979, and April 30, 1980, respectively, rather than the January 27, 1981 decontrol date of motor gasoline.

[5] We generally obtain average market price information from Platt's Oil Price Handbook and Oilmanac (Platt's). If price data for a particular product is not available in Platt's, the burden of supplying alternative information will be on the claimant.

Accordingly, a claimant attempting to demonstrate injury should submit a monthly schedule of the weighted average prices that it paid Pedersen for each grade of motor gasoline during the May 1, 1979 through September 30, 1979 consent order period.

If a reseller or retailer that is eligible for a refund in excess of $5,000 does not submit the cost bank and purchase price information described above, it can still apply for a refund of $5,000, plus accrued interest, using the small claims presumption. If, however, a firm provides the above-mentioned data and we subsequently conclude that the firm should receive a refund of less than the $5,000 small claims threshold, the firm cannot opt for a full $5,000 refund.

III. Applications for Refund

Applications for Refund should not be filed at this time. Before implementing the procedures outlined in this Proposed Decision, we intend to publicize the Decision in order to solicit comments from any interested parties. All comments must be filed within 30 days of the publication of this Proposed Decision in the **Federal Register**. Comments should be sent to: Pedersen Oil, Inc. Refund Proceeding, Case No. HEF–0147, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Pedersen Oil, Inc. pursuant to the Consent Order executed on October 15, 1981 will be distributed in accordance with the foregoing decision.

Appendix 1

Pedersen Oil, Inc. Case No.: HEF–0147

	Share of settlement [1]
First purchasers:	
Gull Oil Company, 3404 4th Avenue S., Seattle, WA 98134	$5,617.16
Fletcher Oil Company, 471 North Curtis Rd., Boise, ID 83706	90.41
Maxwell Oil Company,[2] 701 S. Plum, Olympia, WA 98507	319.44
Robert Buehler, 1104 N. Callow, Bremerton, WA 98312	115.43
Stann Dunn, 730 Bay Street, Port Orchard, WA 98359	170.65
Earl Fuller, 5888 S.E. Olalla Burely Road, Olalla, WA 98359	150.57
Time Oil Company, 2737 West Commodore, Seattle, WA 98199	968.67
Hi-way Market, 6250 Bethel Ave. SE., Port Orchard, WA 98366	165.63
Irondale Grocery, Star Rt #1, Port Townsen, WA 98368	813.07
Hank's Grocery, 3629 Shico Way NW., Bremerton, WA 98310	195.74
Doug McGee's Arco, 402 Sleater Kinney Road NE., Olympia, WA 98503	421.60
Mel's Mobil, 140 Highway 101 S., Brinnen, WA 98320	195.74
Nebert Bros., 1233 E. First Street, Port Angeles, WA 98362	20.08
Roy's Auto Specialty, 499 Madison Ave. N. Bambridge Island, WA 98110	105.40
Gene Fetty, Rt #1, Box 11, Port Townsend, WA 98368	858.24
Virgil Robbins, 109 Elma Monte Road, Elma, WA 98541	190.72
Hansville Repair, Rt #2, Box 201, Hansville, WA 98340	135.51
Total	10,534.05

[1] This figure does not include accrued interest.
[2] Last known address: firm is no longer in business.

Appendix 2

Pedersen Oil, Inc. Case No.: HEF–0147

	Share of settlement [1]
First purchasers *addresses unknown:*	
E. Hansen	$496.89
W. Pitt [2]	10.04
Barnards [2]	5.02
Total	511.95

[1] This figure does not include accrued interest.
[2] As explained in the Decision, we do not intend to process claims for less than $15.

[FR Doc. 88–13145 Filed 6–9–88; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3394–8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review, and is available to the public for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instruments.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Significance of Food Processing By-products as Contributors to Animal Feed—Phase I—Food Processing Industry Survey. (EPA ICR # 1435).

Abstract: This survey of the food processing industry seeks to learn what percentage of by-products from processed raw agricultural commodities become feed for livestock. Ultimately the Agency will use the survey data to help establish safe tolerance levels for food and feed additives.

Respondents: Food Processors.

Estimated Burden: 7,500 hours.

Frequency of Collection: On occasion.

Comments on the ICR should be sent to:

Carla Levesque, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M St. SW., Washington, DC 20460;

and

Timothy Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC 20503 (Telephone (202) 395-3084).

Dated: June 2, 1988.

Paul Lapsley,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 88-13111 Filed 6-9-88; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3395-1]

Availability of Environmental Impact Statements Filed May 30, 1988 Through June 3, 1988

Responsible Agency: Office of Federal Activities, General Information, (202) 382-5073 or 382-5075.

EIS No. 880173, Final, EPA, VI, Cruz Bay Wastewater Facilities Plan, Development and Evaluation, Construction Grant, St. John, VI, Due: July 11, 1988, Contact: Machael Verbaar, (212) 264-6720.

EIS No. 880174, Draft, FHW, MD, I-695/Baltimore Beltway, US 40 West to MD-170 and MD-295/Baltimore-Washington Expressway, MD-46 to the Baltimore City Line Improvements, Funding and 404 Permit, Baltimore and Anne Arundel Counties, MD, Due: July 25, 1988, Contact: Ronald Carmichael, (301) 962-4010.

EIS No. 880175, Draft, EPA, FL, MXG, Gulf of Mexico Ocean Dredged Material Disposal Site (ODMDS) Designation for Fine Grained Dredged Material from the Pensacola Navy Homeport Project and Other Future Projects, FL, Due: July 25, 1988, Contact: Reginald Rogers, (404) 347-2126.

EIS No. 880176, Draft, BLM, AK, Fortymile River Watershed, Multiple Placer Mining Management Plan, Approval, Implementation and 404 Permit, Upper Yukon-Canada Subregion, AK, Due: August 12, 1988, Contact: Richard Dworsky, (907) 271-3114.

Dated: June 7, 1988.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 88-13150 Filed 6-9-88; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3395-2]

Environmental Impact Statements and Regulations; Availability of EPA Comments; Prepared May 23 through May 27, 1988

Availability of EPA comments prepared May 23, 1988 through May 27, 1988 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5074.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 22, 1988 (53 FR 13318).

Draft EISs

ERP No. DA-COE-F32048-Mi, Rating E02, Sault Ste. Marie Federal Facilities, Operation, Maintenance and Minor Improvements, Extension of Operations thru 31 January +2 Weeks and Additional Information, Implementation, Chippewa County, MI.

Summary: EPA has determined that the expected environmental impacts may be adverse and significant. EPA requested additional information on the effects the lengthened season of proposed activities will have on water quality, submerged vegetation, benthic ecosystems, fisheries and deer. In addition, EPA requested information on shoreline erosion, structures, and oil spill frequency and cleanup.

ERP No. DS-FHW-D40050-MD, Rating EC2, Relocated MD-32 Improvements, MD-108 to Pindell School Road, Project Location Reevaluation, Funding and 404 Permit, Howard County, MD.

Summary: EPA has concerns with the impacts to groundwater, farmland, and the W.R. Grace Washington Research Center potential hazardous waste site. EPA recommends that possible impacts to farmland and the potential hazardous waste site be discussed in greater detail in the final EIS. EPA also recommends the installation of groundwater monitoring wells near the study area.

ERP No. D-FHW-K50005-CA, Rating EC2, Twin Bridges Replacement across Chorro Creek, South Bay Boulevard, Funding and 404 Permit, City of Morro Bay, San Luis Obispo County, CA.

Summary: EPA expressed environmental concerns because this document did not discuss the potential impacts of siltation on downstream habitats, especially marsh vegetation. EPA also requests a more specific mitigation plan.

ERP No. D-NPS-L61169-AK, Rating LO, Bering Land Bridge National Preserve, Wilderness Recommendations, Designation or Nondesignation, AK.

Summary: EPA had no objections to the action as described in this document. The proposed action, Alternative 2, would provide reasonable protection for park resources and values while providing flexibility for a variety of uses.

ERP No. D-NPS-L61170-AK, Rating EC2, Yukon-Charley Rivers National Preserve, Wilderness Recommendations, Designation or Nondesignation, AK.

Summary: EPA expressed environmental concerns due to the potential adverse impacts of human activity on the endangered Peregrine falcon. More information was requested on the implementation of human use restrictions in the Peregrine habitat.

ERP No. D-NPS-L61171-AK, Rating LO, Kenai Fjords National Park, Wilderness Recommendations, Designation or Nondesignation, AK.

Summary: EPA has no objections to the actions as proposed in this document.

Final EISs

ERP No. F-COE-E36124-KY, Upper Cumberland River Basin Area Flood Damage Reduction Plan, Implementation, Harlan, Baxter, Loyall and Rio Vista Cities, Harlan County, KY.

Summary: EPA feels the comments on the draft EIS are satisfactorily addressed in this document.

Note: The above summary should have appeared in the 6-3-88 FR Notice.

Dated: June 7, 1988.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 88-13151 Filed 6-9-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-00092; FRL-3396-4]

Biotechnology Science Advisory Committee; Subcommittee on Premanufacture Notification Review; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 1-day meeting of the Biotechnology Science Advisory Committee's Subcommittee on Premanufacture Notification Review. This subcommittee will advise EPA on a premanufacture notification (PMN) submitted to EPA by BioTechnica Agriculture Inc. (BTA), in compliance with the Toxic Substances Control Act (TSCA). The meeting will be open to the public although some parts of the meeting may be closed for discussion of confidential business information.

DATES: The meeting will be held on Thursday, July 14, 1988, from 10 a.m. to 5 p.m Requests to speak at the BSAC Subcommittee meeting and written comments for consideration by the BSAC Subcommittee should be submitted by July 5, 1988.

ADDRESS: The meeting will be held at: Environmental Protection Agency, Rm. 1112, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written comments for consideration by the BSAC Subcommittee and requests to speak at the meeting should be identified with the docket control number "[OPTS-00092]" and should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M St. SW., Washington, DC 20460, (202) 554-1305.

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

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. I (1982)) which requires that timely notice of each meeting of a Federal advisory committee be published in the **Federal Register**. This notice announces that the EPA will convene a 1-day meeting of the Biotechnology Science Advisory Committee Subcommittee on Premanufacture Notification Review (BSAC Subcommittee) on July 14, 1988.

BTA has voluntarily submitted four PMNs for EPA review under TSCA section 5 as requested in the Agency's June 26, 1986 Statement of Policy (51 FR 23326). The PMN microorganisms are four strains of *Bradyrhizobium japonicum* which have been genetically engineered to carry genes for antibiotic resistance that came from microorganisms in a different genus. BTA plans to conduct small-scale field tests in two locations to evaluate the ability of the genetically engineered *B. japonicum* strains to compete and form nodules on soybean plants. The antibiotic resistance genes will provide a means of monitoring the survival and location of the PMN strains under field conditions.

I. Announcement of the Receipt of Premanufacture Notification

A notice announcing the receipt of the PMNs designated as: P 88-1275, P 88-1276, P 88-1277, and P 88-1278 appeared as part of the weekly notice of PMNs published in the **Federal Register** of May 26, 1988 (53 FR 19035). These PMNs are the subject of this meeting of the BSAC Subcommittee. Please consult that **Federal Register** notice for specific information on these PMNs. Copies of the PMN submission are available in the public file identified with the docket control number OPTS-51706, and copies are available on request from the TSCA Assistance Office by calling (202) 554-1404.

II. Purpose of the Meeting

The BSAC Subcommittee will meet to advise EPA in its review of these PMN microorganisms under the authority of section 5 of TSCA. EPA has decided that expert assistance is desirable because risk assessment for genetically modified microorganisms released to the environment is a new area. The current limitations in scientific data on such releases require the Agency to conduct case specific studies. As scientific data on environmental releases becomes available, general principles for review of these releases may be established. Since such principles are not yet established, EPA plans to consult with experts outside the agency during its review of certain PMN microorganisms.

EPA will develop a risk assessment, estimate the benefits associated with the new substances, and reach a regulatory decision. The risk assessment will be based on the advice of the BSAC Subcommittee, the information submitted in the PMN, and other available information. The risk assessment will estimate the benefits associated with field experiments using the PMN microorganisms, and evaluate whether any risk associated with the PMN microorganisms may be unreasonable.

Members of the BSAC Subcommittee will review EPA's draft risk assessment and advise the Agency of their own assessment of the available data on the potential hazards and likely exposures to the PMN microorganisms. The subcommittee members will review any written comments provided by the public in advance of the meeting and will assist in identifying additional information that may be necessary to determine whether the environmental release of the microorganism may present an unreasonable risk to human health or the environment. After this public meeting, EPA may request additional information from the PMN submitter.

EPA has authority to allow manufacture and use, to prohibit release or to impose restrictions on manufacture and use of the PMN microorganisms. EPA has 90 days to review the PMN. The review period may be extended by agreement between BTA and EPA, or unilaterally by EPA under section 5(c) of TSCA. EPA has established a file, OPTS-00092 that specifically concerns this meeting of the BSAC Subcommittee on Premanufacture Notification Review. The risk assessment as well as public comments on the PMN submission will be available in this public docket after July 1, 1988.

III. Public Comment and Participation

The meeting will be open to the public although parts of the meeting may be closed to allow disussion of confidential business information. Members of the BSAC Subcommittee will hear the comments of individuals who have requested the opportunity to speak. EPA will also describe in more detail its approach to risk assessment for these PMN microorganisms.

IV. Subject of the Meeting

The PMN microorganisms being reviewed by EPA are four strains of genetically engineered *Bradyrhizobium japonicum*. BTA has selected two parent strains of *B. japonicum*: USDA 110 and an isolate from a field in Pepin County, Wisconsin. Genes for streptomycin/spectinomycin resistance from *Shigella flexneri* and termination sequences from *Escherichia coli* were genetically engineered into each parent strain resulting in two PMN microorganisms. A different construction using kanamycin/neomycin resistance genes from *Klebsiella pneumoniae* were genetically engineered into each parent strain. As a result, a total of four new microorganisms (containing genetic material from different genera) were created. BTA has conducted research on some of the PMN microorganisms in contained facilities such as laboratories,

growth chambers, and greenhouses, and now wishes to continue its research and development (R&D) activities by conducting small-scale field trials.

There will be two small-scale field trials: (1) To determine the effect of the insertion of marker genes into *B. japonicum* on competition and symbiotic performance under field conditions and (2) to compare different methods of applying *B. japonicum* to soybean seeds. The field trials will be conducted in: (1) A 100 acre field at BTA's Chippewa Agricultural Station near Arkansaw in Pepin County, Wisconsin and (2) a 77 acre field at McAllister Seed Company's facilities near Mount Pleasant in Henry County, Iowa.

The use of these PMN microorganisms which are "marked" with the introduced antibiotic resistance genes will allow BTA to monitor the survival and location of these PMN microorganisms under actual field conditions. These field tests are one step in BTA's attempt to develop strains of *B. japonicum* with an increased ability to convert atmospheric nitrogen to forms of nitrogen utilized by crop plants. The identification of a genomic site suitable for integration of genetic material without affecting normal cell growth or symbiotic function is an important step in developing a commercial product.

BTA has submitted information concerning: the identity of the organism, genetic engineering techniques used, exposure data, human health considerations, the locations of the proposed field test, design and supervision of the tests, methods of application, monitoring and control procedures, and environmental fate and effects.

BTA voluntarily submitted the PMNs on May 3, 1988, although these microorganisms are part of BTA's R&D activities. The company took this action in compliance with EPA's "Statement of Policy" published in the Federal Register of June 26, 1986 (51 FR 23313). In that notice, EPA stated that certain microbial products were subject to TSCA, and requested commercial researchers intending to release new living microorganisms into the environment to report their activities to the Agency, rather than to conduct such activities under the exemption for R&D provided by section 5(h)(3) of TSCA. These microorganisms developed by BTA are subject to PMN requirements, because they contain genetic material from more than one taxonomic genus, and therefore are defined as new microorganisms in the 1986 Statement of Policy.

Dated: June 7, 1988.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 88-13210 Filed 6-9-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-400017; FRL-3395-5]

Computer Sciences Corp. Inc.; Access to Trade Secret Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized Comptuer Sciences Corporation, and their subcontractor, CRC Systems, Incorporated of Fairfax, VA for access to information which has been submitted to EPA under sections 303, 311, 312, and 313 of the Emergency Preparedness and Community Right-to-Know Act of 1986, also known as Title III. Some of the information may be claimed or determined to be trade secret information.

DATE: Access to the trade secret information submitted to EPA will occur no sooner than June 24, 1988.

FOR FURTHER INFORMATION CONTACT: Steve Newburg-Rinn, Acting Chief, Public Data Branch (TS-793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. NE-G008, 401 M Street SW., Washington, DC 20460, (202-382-3758).

SUPPLEMENTARY INFORMATION: Under the Superfund Amendments and Reauthorization Act of 1986 (SARA), industry must report information on the presence, use, production, and manufacture of certain chemicals to EPA.

Under contract number 68-01-7176, CRC Systems, Incorporated, 11242 Waples Mill Road, Fairfax, VA 22030, as subcontractors to Computer Sciences Corporation, 8100 Gatehouse Road, Falls Chruch, VA, will develop an automated Section 313 Toxic Release Inventory submission form on personal computer diskette as an enhancement to the Section 313 Toxic Release Inventory mainframe computer system. Specifically, CRC Systems Incorporated will analyze the requirements for a TRI automated form, determine the feasibility of modifying existing automated form software and develop and test software for a TRI automated submission form.

In accordance with 40 CFR 2.306(j), EPA has determined that Computer Science Corporation and their subcontractors, CRC Systems, Incorporated will require access to trade secret information under SARA to successfully design and develop an automated TRI form. CRC Systems personnel will be given access to SARA section 313 submissions and related documents. Some of the information may be claimed or may be determined to be trade secret. Personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures.

EPA is issuing this notice to inform all submitters of information under sections 303, 311, 312, and 313 of SARA that EPA may provide Computer Sciences Corporation and their subcontractors, CRC Systems, Incorporated access to these trade secret materials on a need-to-know basis. All access to SARA trade secret information under this contract will take place at the Title III Reporting Center. Upon termination of their contract, or prior to termination of their contract at EPA's request, Computer Sciences Corporation will return all materials to EPA.

Clearance to access to SARA trade secret information under this contract is scheduled to expire on September 30, 1990.

Dated: May 30, 1988

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 88-13113 Filed 6-9-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-400016; FRL-3395-4]

Planning Research Corp.; Access to Trade Secret Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized Planning Research Corporation, and their subcontractors, Sycom, Incorporated of Chantilly, VA for access to information which has been submitted to EPA under sections 303, 311, 312, and 313 of the Emergency Preparedness and Community Right-to-Know Act of 1986, also know as Title III. Some of the information may be claimed or determined to be trade secret information.

DATE: Access to the trade secret information submitted to EPA will occur no sooner than June 24, 1988.

FOR FURTHER INFORMATION CONTACT: Steve Newburg-Rinn, Acting Chief, Public Data Branch (TS-793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm.

NE-G008, 401 M Street SW., Washington, DC 20460, (202-382-3758).

SUPPLEMENTARY INFORMATION: Under the Superfund Amendments and Reauthorization Act of 1986 (SARA), industry must report information on the presence, use, production, and manufacture of certain chemicals to EPA.

Under contract number 68-01-7361, Sycom Incorporated, 14532 Lee Road, Chantilly, VA 22021, as subcontractor to Planning Research Corporation, will assist the Office of Toxic Substances, Information Management Division in design, development, implementation, and maintenance of the Toxic Chemical Release Inventory data base in response to the requirements of sections 303, 311, 312, and 313 of SARA. Specifically, Sycom, Incorporated will establish and maintain a data base, called the Toxic Chemical Release Inventory, and an associated document tracking system for the purpose of electronically storing data collected by the EPA in accordance with the requirements of SARA, Title III section 313.

In accordance with 40 CFR 2.306(j), EPA has determined that Sycom, Incorporated will require access to trade secret information under SARA to successfully test and maintain the Title III document tracking system and Toxic Chemical Release Inventory data base. For example, Sycom Incorporated personnel will be given access to SARA sections 303, 311, 312, and 313 submissions and related documents. Some of the information may be claimed or may be determined to be trade secret. Personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures.

EPA is issuing this notice to inform all submitters of information under sections 303, 311, 312, and 313 of SARA that EPA may provide Sycom, Incorporated access to these trade secret materials on a need-to-know basis. All access to SARA trade secret information under this contract will take place at the Title III Reporting Center. Upon termination of their contract, or prior to termination of their contract at EPA's request, Sycom, Incorporation will return all material to EPA.

Clearance to access to SARA trade secret information under this contract is scheduled to expire on September 30, 1991.

Dated: May 30, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 88-13114 Filed 6-9-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Advanced Television Service; Planning Subcommittee; Meeting

1. The Planning Subcommittee will hold its fifth meeting on: June 28, 1988, 9:30 a.m., 1919 M Street NW., Washington, DC 20554, Room 856.

2. The purpose of this meeting is to review the working parties' reports and the Chairman's report to the Advisory Committee and to discuss future work.

3. The agenda of the meeting is as follows:

a. Call to order by the chairman
b. Adoption of the minutes of the fourth meeting
c. Review and discussion of the final reports of each Working Party and Advisory Group Chairman
d. A review of the Interim Report submitted to the FCC
e. Further work to be performed by the Planning Subcommittee
f. Other business
g. Date and location of next meeting

4. This meeting is open to the public.

5. Parties may submit written statements prior to or at the time of the meeting. Oral statements and discussion will be permitted under the direction of the Chairman.

6. For further information please contact:

Chairman J.A. Flaherty, (212) 965-2213, or William Hassinger, (202) 632-6460.

H. Walker Feaster III,

Acting Secretary, Federal Communications Commission.

[FR Doc. 88-1305 Filed 6-9-88; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1732]

Petitions for Reconsideration and Applications for Review of Actions in Rule Making Proceedings

June 3, 1988.

Petitions for reconsideration and applications for review have been filed in the Commission rule making proceeding listed in this Public notice and published pursuant to 47 CFR 1.429(e). The full text of these document are available for viewing and copying in Room 239, 1919 M Street NW., Washington, DC, or may be purchased from the Commission's copy contractor International Transcription Service (202-857-3800). Oppositions to these petitions and applications must be filed June 27, 1988. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Santa Isabel, Puerto Rico and Christiansted, Virgin Islands) (MM Docket No. 85-211, RM-4740) Number of petitions received: 2.

Subject: Amendment of Part 74 of the Commission's Rules to Provide for Satellite and Terrestrial Microwave Feeds to Noncommercial Educational FM Translators. (MM Docket No. 86-112, RM-5219) Number of petitions received: 3.

Subject: Amendment of § 73.606(b), Table of Allotments, TV Broadcast Stations. (Grand Junction, Colorado) (MM Docket No. 86-148, RM-4931) Number of petitions received: 1.

Application for Review

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Atlanta, Texas) (MM Docket No. 86-87, RM-5094) Number of applications received: 1.

H. Walker Feaster III,

Acting Secretary, Federal Communications Commission.

[FR Doc. 88-13052 Filed 6-9-88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[Notice No. 3, June 7, 1988]

Federal Savings and Loan Advisory Council Meeting

AGENCY: Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the Federal Savings and Loan Advisory Council. Notice of the meeting is required under the Federal Advisory Committee Act.

DATE(S):

June 21, 1988, 9:00 a.m.-5:00 p.m.
June 22, 1988, 9:00 a.m.-11:30 a.m.

ADDRESS: Hotel Washington, 15th and Pennsylvania Ave., NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: John M. Buckley, Jr. (202) 377-6577, Debra J. Ahearn (202) 377-6924.

SUPPLEMENTARY INFORMATION:

Proposed agenda:

1. Thrift Industry concerns
2. Major Legal Issues
3. Emerging Issues for the Thrift Industry

4. Investment Banking and Thrift Institutions

John M. Buckley, Jr.,

Secretary.

[FR Doc. 88-13177 Filed 6-8-88; 10:05 am]

BILLING CODE 6720-10-M

Larue Federal Savings and Loan Association, Hodgenville, KY; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 5 (d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for LaRue Federal Savings and Loan Association, Hodgenville, Kentucky, on June 3, 1988.

Dated: June 6, 1988.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Assistant Secretary.

[FR Doc. 88-13070 Filed 6-9-88; 8:45 am]

BILLING CODE 6720-01-M

North America Savings and Loan Association, a Federal Savings and Loan Association, Costa Mesa, CA; Appointment Of Receiver

Notice is hereby given that pursuant to the authority contained in section 5 (d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for North America Savings and Loan Association, A Federal Savings and Loan Association, Costa Mesa California on June 3, 1988.

Dated: June 6, 1988.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Assistant Secretary.

[FR Doc. 88-13071 Filed 6-9-88; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-718]

First Empire Federal Savings & Loan Association, Charleston, WV; FHLLB No. 3216; Final Action; Approval of Conversion Application

Date: May 20, 1988.

Notice is hereby given that on May 17, 1988, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Empire Federal Savings and Loan Association, Charleston, West Virginia for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Pittsburgh, One Riverfront Center, Twenty Stanwix Street, Pittsburgh, Pennsylvania 15222-4893.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-13072 Filed 6-9-88; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Petition No. P5-88]

Matson Navigation Co., Inc.; Application for Section 35 Exemption; Filing

Notice is given that Matson Navigation Company, Inc. ("Matson") has applied for an exemption pursuant to section 35 of the Shipping Act, 1916, 46 U.S.C. app. 833a. Specifically, Matson seeks an order from the Federal Maritime Commission exempting Matson from compliance with the provisions of section 2, Intercoastal Shipping Act, 1933, 46 U.S.C. app. 844 and the Commission's rules in 46 CFR 550.3 (f) and 550.3 (o) so that Matson may file (1) on not less than one day's notice new or reduced rates (other than general rate decreases or "across the board" decreases) and (2) on not less than seven working days notice increases in rates (other than general rate increases or "across the board" increases), for rate items listed in Matson's tariffs in the trade between the United States Pacific Coast and Hawaii.

In order for the Commission to make a thorough evaluation of the application for exemption, interested persons are requested to submit views or arguments on the application no later than July 15, 1988. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573-0001 in an original and 15 copies. Responses shall also be served on David F. Anderson, Associate General Counsel, Matson Navigation Company, Inc., Post Office Box 7452, San Francisco, California 94120.

Copies of the application are available for examination at the Washington, DC office of the Commission, 1100 L Street NW., Room 11101.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 88-13135 Filed 6-9-88; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Marlyn N. Bateman

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 24, 1988.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Marlyn N. Bateman*, Sumner, Washington; to acquire up to 16.9 percent of the voting shares of Valley Bancorporation, Sumner, Washington, and thereby indirectly acquire Bank of Sumner, Sumner, Washington.

2. *Michael J. Corliss*, Seattle, Washington; to acquire 16.9 percent of the voting shares of Valley Bancorporation, Sumner, Washington, and thereby indirectly acquire Bank of Sumner, Sumner, Washington.

Board of Governors of the Federal Reserve System, June 6, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-13035 Filed 6-9-88; 8:45 am]

BILLING CODE 6210-01-M

Bankshares Corp. of Niceville, 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 July 1, 1988.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Bankshares Corporation of Niceville,* Niceville, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples National Bank of Niceville, Niceville, Florida.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Vista Bancorporation,* Van Buren, Arkansas; to become a bank holding company by acquiring at least 81.59 percent of the voting shares of Citizens Bank and Trust Company, Van Buren, Arkansas.

Board of Governors of the Federal Reserve System, June 6, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-13036 Filed 6-9-88; 8:45 am]

BILLING CODE 6210-01-M

F & M Bank Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight 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 applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 30, 1988.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *F & M Bank Corp.,* Timberville, Virginia; to engage *de novo* through its subsidiary, TEB Life Insurance Company, Timberville, Virginia, in the reinsurance of credit life and accident and health insurance presently being sold by Farmers & Merchants Bank, the wholly-owned subsidiary of F & M Bank Corp., and F & M Bank Corp. in connection with their extensions of credit pursuant to § 225.25(b)(8) of the Board's Regulation Y. These activities will be conducted in Timberville, Virginia, the surrounding areas of Rockingham and Shenandoah County, Virginia, and the southern portion of Hardy County, West Virginia, the Elkton area and the southern portion of Page County, Virginia.

B. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Community Bankshares, Inc.,* Cornelia, Georgia; to engage *de novo* through its subsidiary, Community Family Credit, Inc., Cornelia, Georgia, in making, acquiring, or servicing loans or other extensions of credit for its account or for the account of others, such as would be made by a consumer finance or a mortgage company pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted throughout the State of Georgia.

Board of Governors of the Federal Reserve System, June 6, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-13037 Filed 6-9-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

National Advisory Mental Health Council; Meeting

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Cancellation of meeting notice.

SUMMARY: Public notice was given in the **Federal Register** on May 11, 1988, Volume 53, No. 91, on Page 16784 that the National Advisory Mental Health Council, NIMH, would meet on June 13 at 9:00 a.m. in the Parklawn Building, Conference Rooms G and H, 5600 Fishers Lane, Rockville, MD 20857. This meeting has been cancelled.

Date: June 8, 1988.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 88-13192 Filed 6-9-88; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

Committees; Establishment Renewal, Termination, etc.; AIDS Prevention Advisory Committee

ACTION: Notice of establishment—CDC AIDS Prevention Advisory Committee.

Pursuant to Federal Advisory Committee Act, 5 U.S.C., Appendix 2, the Centers for Disease Control (CDC) announces the establishment by the Secretary of Health and Human Services, on May 11, 1988, of the following Federal advisory committee:

Designation: CDC AIDS Prevention Advisory Committee.

Purpose: This Committee will advise the Director, CDC, regarding objectives, strategies, and priorities for AIDS

prevention efforts including maintaining surveillance of AIDS and HIV infection, the epidemiologic and laboratory study of AIDS and HIV, information/education and risk reduction activities designed to prevent the spread of HIV infection, and other preventive measures that become available.

Authority for this Committee will expire May 11, 1990, unless the Secretary of Health and Human Services, with the concurrence of the Committee Management Secretariat, General Services Administration, formally determines that continuance is in the public interest.

Dated: June 6, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88-13063 Filed 6-9-88; 8:45 am]

BILLING CODE 4160-18-M

National Institute for Occupational Safety and Health Board of Scientific Counselors; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following National Institute for Occupational Safety and Health (NIOSH) committee meeting:

Name: Board of Scientific Counselors (BSC).

Date: June 28-29, 1988.

Place: Auditorium A, Centers for Disease Control, 1600 Clifton Road NE., Atlanta, Georgia 30333.

Time and Type of Meeting:

Open 9 a.m.-5 p.m., June 28.

Open 8:30 a.m.-12 noon, June 29.

Contact Person: Roy M. Fleming, Sc.D., Executive Secretary, BSC, NIOSH, CDC, 1600 Clifton Road NE., Atlanta, Georgia 30333. Telephone: Commercial: (404) 639-3343, FTS: 236-3343.

Purpose: The Board is charged with advising the Director of the National Institute for Occupational Safety and Health on the scientific quality and efficacy of the Institute's research.

Agenda: Agenda items for the meeting will include announcements, consideration of minutes of the previous meeting, an overview of NIOSH, a discussion of the function of the Board, review of past Board activities, and current and planned activities for the Board.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentations will be scheduled at the discretion of the Chairperson and as time permits.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: June 6, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88-13062 Filed 6-9-88; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

Advisory Committee; Amendment of Meeting Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is amending a public advisory committee meeting notice of the General and Plastic Surgery Devices Panel to reflect an addition to the open committee discussion agenda. Notice of the June 24, 1988, meeting was published in the **Federal Register** of May 20, 1988 (53 FR 18162).

SUPPLEMENTARY INFORMATION: In FR Doc. 88-11381, appearing at page 18162 in the **Federal Register** of May 20, 1988, a change is made under the heading "General and Plastic Surgery Devices Panel." On page 18162, second and third columns, the *Open committee discussion* paragraph is revised to read as follows:

Open Committee Discussion

The committee will discuss premarket approval applications (PMA's) for a collagen device for temporary embolization and a polypropylene suture. The committee may discuss a PMA for a biosynthetic temporary skin substitute and a nylon suture, and may also discuss a reclassification petition for nonabsorbable polyamide surgical sutures (Docket No. 88P-0136).

Dated: June 3, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-13055 Filed 6-7-88; 11:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting:

Boston District Office, chaired by E.J. McDonnell, District Director. The topic to be discussed is health messages on food labeling.

DATE: Tuesday, June 21, 1988, 10 a.m. to 12 p.m.

ADDRESS: Superior Court, Room 11/12, Route 6A, Barnstable, MA 02630.

FOR FURTHER INFORMATION CONTACT: Paula Fairfield, Consumer Affairs Officer, Food and Drug Administration, One Montvale Avenue, Stoneham, MA 02180, 617-279-1479.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: June 3, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-13057 Filed 6-9-88; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Privacy Act of 1974; System of Records

AGENCY: Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS).

ACTION: Notice of new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, "Medicare Physician Identification and Eligibility System (MPIES)," HHS/HCFA/BPO No. 09-70-0525. We have provided background information about the proposed system in the "**SUPPLEMENTARY INFORMATION**" section below. Although the Privacy Act requires only that the "routine uses" portion of the system be published for comment, HCFA invites comments on all portions of this notice. See date section for comment period.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on June 7, 1988. The new system of records will become effective August 9, 1988, unless HCFA receives comments which would necessitate alterations to the system.

ADDRESS: The public should address comments to Richard A. DeMeo, HCFA Privacy Act Officer, Office of Management and Budget, Health Care Financing Administration, Room G–M–1, East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Phillip Brown, Division of Operational Initiatives, Office of Program Administration, Bureau of Program Operations, Health Care Financing Administration, Room 367 Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone 301–966–7158.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records and to collect data under the authority of section 9202(g) of the Consolidated Omnibus Budget Reconciliation Act (Pub. L. 99–272) which mandates that: "The Secretary of Health and Human Services shall establish a system, for implementation not later than July 1, 1987, which provides for a unique identifier for each physician who furnishes services for which payment may be made under Title XVIII of the Social Security Act." Because the deadline could not be met, HCFA requested and received an extension of the implementation date to October 1, 1988.

HCFA has decided to identify physicians with a system comprised of unique physician identification numbers (UPIN) and records entitled Medicare Physician Identification and Eligibility Records (MPIER). The UPIN is comprised of a combination of six letters and numbers. The MPIER is the physician record established with the data collected. The UPIN is affixed to the MPIER. HCFA will establish a Registry to assign a UPIN to each physician who wishes to provide services under Medicare. The Registry will be responsible for maintaining physician data, as well as assigning the UPIN.

Enrollment information will be obtained from data currently available in the carrier's system. This data will be submitted to each related individual physician for verification and signature before submission to HCFA for assignation of an identifier. Duplicate data for two or more physicians will be investigated by the carrier to determine if the identified physicians are the same, or different individuals. Once assured of no duplication, HCFA will notify the carrier of the appropriately assigned UPIN. The carriers will issue the UPINs to the physicians.

Aside from the enrollment data, the MPIES and carrier's systens will enable HCFA to determine whether a physician, whose services are billed to the program, is entitled to Medicare reimbursement. The Privacy Act permits us to disclose information without consent of the individual for "routine uses"—that is, disclosure for purposes that are compatible with the purpose for which we collect the information. The proposed routine uses in the new system meet the compatibility criteria, inasmuch as the information is collected for administering payments to physicians in accordance with Title XVIII of the Social Security Act. We anticipate that disclosure under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: June 2, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

09–70–0525

SYSTEM NAME:

Medicare Physician Identification and Eligibility System (MPIES) HHS/HCFA/BPO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Care Financing Administration (HCFA) (Paper Media), 6325 Security Boulevard Baltimore, Maryland 21207. (Contact system manager for location of Magnetic Media computerized records.) Medicare Carriers (See Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All physicians, as defined by section 1861(r) of Title XVIII of the Social Security Act, who request and/or receive Medicare reimbursement for their medical services.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains a unique physician identification number (UPIN) for each physician and information concerning a physician's birth, residence, medical education, and eligibility information for Medicare reimbursement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9202(g) of Pub. L. 99–272; 1832(a)(2) (B)(i) and (F); 1833(a)(1) (C) and (G); 1842(a)(1), (b)(3)(B)(ii), (b)(3)(D), (b)(3)(E), (b)(4)(D)(iii), (b)(6), (b)(7)(A), (b)(7)(C), (b)(7)(D), (h)(1), (h)(4), (h)(5), and (j); 1861 (q), (r), (s)(1) and (aa)(1)(A); and 1862 of Title XVIII of the Social Security Act.

PURPOSE OF THE SYSTEM:

To maintain unique identification of each physician requesting and/or receiving Medicare reimbursement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND PURPOSES OF SUCH USES:

Disclosures may be made to:

(1) A contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system or for developing, modifying and/or manipulating ADP software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for an ADP or telecommunications system containing or supporting records in the system.

(2) A congressional office from the record of an individual physician in response to an inquiry from the congressional office at the request of that individual physician.

(3) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

(4) Professional Review Organizations in connection with their review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Social Security Act.

(5) To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when

(a) The Department of Health and Human Services (HHS), or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components,

Is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or

the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

(6) The Department of Justice for investigation and prosecuting violations of the Social Security Act to which criminal penalties attach, or other criminal statutes as they pertain to the Social Security Act programs, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

(7) State Licensing Boards for review of unethical practices or nonprofessional conduct.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic media.

RETRIEVABILITY:

Records are retrieved alphabetically by the physicians' name or by their UPIN.

SAFEGUARDS:

a. Authorized Users: Only agency employees and contractor personnel whose duties require the use of information in the system. In addition, such agency employees and contractor personnel are advised that the information is confidential and of criminal sanctions for unauthorized disclosure of information.

b. Physical Safeguards: Records are stored in locked files or secured areas. Computer terminals are in secured areas.

c. Procedural Safeguards: Employees who maintain records in the system are instructed to grant regular access only to authorized users. Data stored in computers are accessed through the use of passwords known only to authorized personnel.

Contractors who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act. Privacy Act language is included in contracts related to this system.

d. Implementation Guidelines: Safeguards implemented in accordance with all guidelines required by the Department of Health and Human Services. Safeguards for automated records have been established in accordance with HHS *ADP Systems Manual*, Part 6, "ADP Systems Security."

RETENTION AND DISPOSAL:

Records are retained indefinitely, except in the instance of a physician's death, in which case HCFA would retain such records for a 10 year period following the physician's death.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Bureau of Program Operations, Health Care Financing Administration, Room 300 Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURES:

Inquiries and requests for system records should be addressed to the system manager at the address above. The requestor must specify the physician's name, date of birth, and medical school.

RECORD ACCESS PROCEDURES:

Same as notification procedure. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Departmental Regulations (45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

Contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the reason for contesting it; e.g., why it is inaccurate, irrelevant, incomplete or not current. (These procedures are in accordance with Departmental Regulations (45 CFR 5b.7).)

RECORDS SOURCE CATEGORIES:

HCFA obtains the identifying information in this system from carriers (which verify the data with the individual physician concerned). Information in these records concerning physicians' eligibility for Medicare reimbursenent is obtained either directly or through Medicare Regional Offices, contractors, and PROs; from the Department of Justice; State or local judicial systems; medical licensing and certification agencies or organizations; and medical societies and associations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix A—Medicare Carriers

Medicare Coordinator, Blue Cross and Blue Shield of Alabama, 450 Riverchase Parkway East, Birmingham, Alabama 35298

Vice President for Medicare and Medical Services, Arkansas Blue Cross and Blue Shield, Inc., 601 Gaines Street, Little Rock, Arkansas 72203

Medicare Coordinator, California Physicians Service, (d/b/a Blue Shield of California), P.O. Box 7013, No. 2 Northpoint, San Francisco, California 94120

Medicare Coordinator, Transamerica Occidental Life Insurance Company, P.O. Box 54905 Terminal Annex, Los Angeles, California 90054

Assistant Vice President, Rocky Mountain Hospital and Medical Service, (d/b/a Blue Cross and Blue Shield of Colorado), 700 Broadway, Denver, Colorado 80273

Medicare Administrator, Travelers Ins. Co., One Tower Square, Hartford, Connecticut 06183

Medicare Administrator, Aetna Life & Casualty, 151 Farmington Avenue, Hartford, Connecticut 06156

Medicare Coordinator, Blue Cross and Blue Shield of Florida, Inc., P.O. Box 1798, Jacksonville, Florida 32231

Health Care Service Corporation, 233 North Michigan Avenue, Chicago, Illinois 60601

Associated Insurance Companies, Inc., (d/b/a Blue Cross and Blue Shield of Indiana), 8320 Craig Street, Suite 100, Indianapolis, Indiana 46250–0453

Assistant Executive Director, Blue Shield of Iowa, Ruan Building, 636 Grand Avenue, Station 28, Des Moines, Iowa 50309

Medicare Assistant, Blue Cross and Blue Shield of Kansas, Inc., P.O. Box 239, Topeka, Kansas 66601

Blue Cross and Blue Shield of Kentucky, Inc., 100 East Vine Street, 6th Floor, Lexington, Kentucky 40517

Medicare Coordinator, Blue Cross and Blue Shield of Maryland, Inc., 700 E. Joppa Road, Baltimore, Maryland 21204

Medicare Coordinator Part B, Blue Shield of Massachusetts, Inc., 100 Summer Street, Boston, Massachusetts 02110

Assistant Vice President Government, Affairs Department, Blue Cross and Blue Shield of Michigan, 600 Lafayette East, Detroit, Michighan 48226

Blue Cross and Blue Shield of Minnesota, P.O. Box 64357, 3535 Blue Cross Road, St. Paul, Minnesota 55164

Vice President Government Programs, Blue Cross and Blue Shield of Kansas City, P.O. Box 169, Kansas City, Missouri 64141

Director, Medicare Administration, General American Life Insurance Co., P.O. Box 505, St. Louis, Missouri 63166

Blue Cross and Blue Shield of Montana, Inc., P.O. Box 4309, 404 Fuller Avenue, Helena, Montana 59601

Medicare Coordinator, Prudential Insurance Co. of America, Tri-City Office Drawer 471, Millville, New Jersey 08332

Director of Medicare Part B, Blue Shield of Western New York, Inc., 298 Main Street, Buffalo, New York 14202

Medicare Coordinator, Group Health Insurance, Inc., 330 West 42nd Street, New York, New York 10036

Medicare Coordinator, Empire Blue Cross and Blue Shield, 622 Third Avenue, New York, New York 10017

Medicare Coordinator, EQUICOR, Inc., 1285 Avenue of the Americas, New York, New York 10019

Medicare Coordinator, Blue Cross and Blue Shield of North Dakota, 4510 13th Avenue, S.W., Fargo, North Dakota 58121
Medicare System and Processing Division, Nationwide Mutual Insurance Company, P.O. Box 16788, Columbus, Ohio 43216
Medicare Coordinator, Pennsylvania Blue Shield, P.O. Box 65, Camp Hill, Pennsylvania 17011
Chief, Internal Operations, Sequros de Servicio de Salud de Puerto Rico, Inc., G.P.O. Box 3628, San Juan, Puerto Rico 00936-3628
Medicare Coordinator, Blue Cross and Blue Shield of Rhode Island, 444 Westminster Mall, Providence, Rhode Island 02901
Medicare Coordinator, Blue Cross and Blue Shield of South Carolina, Fontaine Business Center, 300 Arbor Lake Drive, Suite 1300, Columbia, South Carolina 29223
Blue Cross and Blue Shield of Texas, Inc., 901 South Central Expressway, P.O. Box 833815, Richardson, Texas 75083-3615,
Manager, Part B, Blue Cross and Blue Shield of Utah, P.O. Box 30270, 2455 Parley's Way, Salt Lake City, Utah 84130
Assistant Administrator, Washington Physicians Service, 4th and Battery Building, 2401 4th Avenue, 6th Floor, Seattle, Washington 98121
Director, Medicare Claims Department, Wisconsin Physicians' Service Insurance, Corp., 1717 West Broadway, Monona, Wisconsin 53713

[FR Doc. 88-13045 Filed 6-9-88; 8:45 am]
BILLING CODE 4120-03-M

National Institutes of Health

National Cancer Institute; Open Meeting; Cancer Therapeutics Program Project Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Therapeutics Program Project Review Committee, National Cancer Institute, on August 9-10, 1988, Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

This meeting will be open to the public on August 9 from 8 a.m. to 8:30 a.m., to review adminsitrative details. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in § § 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and § 10(d) of Pub. L. 92-463, the meeting will be closed to the public on August 9 from 8:30 a.m. to adjournment on August 10 for the review, discussion and evaluation of individual program project applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitue a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide a summary of the meeting and a roster of committee members, upon request.

Dr. Philip L. Perkins, Executive Secretary, Westwood Building, Room 820, Bethesda, Maryland 20892 (301/496-2330) will provide substantive program information.

Dated: June 2, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-13116 Filed 6-9-88; 8:45 am]
BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Open Meeting of Allergy and Clinical Immunology Subcommittee Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Allergy, Immunology, and Transplantation Research Committee, and its subcommittees on June 23, 1988, at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

The meeting will be open to the public from 8:30 a.m. to 10:10 a.m. on June 23, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in § 552b(c)(4) and 552(c)(6), Title 5, U.S.C. and § 10(d) of Pub. L. 92-463, the meeting of the Allergy and Clinical Immunology Subcommittee and the Transplantation Biology and Immunology Subcommittee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 10:10 a.m. on June 23, until adjournment. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Nirmal K. Das, Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, Room 706, Bethesda, Maryland 20892, telephone (301-496-7966), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: June 2, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-13117 Filed 6-9-88; 8:45 am]
BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Open Meeting of Clinical Applications, Prevention and Treatment Subcommittee, Epidemiology and Technology Transfer Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications, Prevention and Treatment Subcommittee, and the Epidemiology and Technology Transfer Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, on June 27-30, 1988, in Conference Room 6, Building 31C, at the National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:30 a.m. to 9:10 a.m. on June 27 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in §§ 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and § 10(d) of Pub. L. 92-463, the meeting of the Clinical Applications, Prevention and Treatment Subcommittee, and the Epidemiology and Technology Transfer Subcommittee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:10 a.m. until recess on June 27, from 8:30 a.m. until recess on June 28, from 8:30 a.m. until recess on June 29, and from 8:30 a.m. until adjournment on June 30.

These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material and

personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. James A. Ferguson, Acting Executive Secretary, Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Westwood Building, Room 704, Bethesda, Maryland 20892, telephone (301-496-7630), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: June 2, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-13118 Filed 6-9-88; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-88-1812]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposals by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submissions; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and the OMB Desk Officer for the Department.

AUTHORITY: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: June 3, 1988.

David S. Cristy,

Deputy Director, Information Policy and Management Division.

Proposal: Enterprise Zone Development.

Office: Community Planning and Development.

Description of the Need for the Information and its Proposed Use: This program allows HUD to designate up to 100 Federal enterprise zones in communities that indentify areas meeting certain statistical distress criteria. The designated zones will receive coordinated local, State, and Federal attention to further their economic development. Information collected will be used to make zone designations and provide program progress reports required in the statute.

Form Number: HUD-40003.

Respondents: State or Local Governments.

Frequency of Responses: Annually.

Estimated Burden Hours: 4,850.

Status: New.

Contact: Michael T. Savage, HUD, (202) 755-6587, John Allison, OMB, (202) 395-6880.

Date: May 31, 1988.

Proposal: Lead-Based Paint Hazard Elimination in Public Housing.

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: Section 566 of the Housing and Community Development Act of 1987 amends Section 302 of the Lead-Based Paint Poisoning Prevention Act to require Public Housing Agencies (HHAs) and Indian Housing Authorities (IHAs) to maintain records on tenant and purchaser notification, testing by location, and abatement by location and method. The PHAs and IHAs are also required to provide tenants and purchasers a copy of all positive lead-based paint test results.

Form: None.

Respondents: State or Local Governments and Non-profit Institutions.

Frequency of Respondents: Recordkeeping and On Occasion.

Estimated Burden Hours: 453,325.

Status: Revision.

Contact: Thomas Sherman, HUD, (202) 755-5830, John Allison, OMB, (202) 395-6880.

Date: May 31, 1988.

Proposal: Management Review Report, Continuation Sheet, and Management Review.

Office: Housing.

Description of the Need for the Information and its Proposed use: The information is needed by HUD to conduct on-site reviews of project operations. HUD uses the information colleted to evaluate the quality of project management, determine the causes of project problems, and devise corrective actions to stabilize projects and prevent defaults.

Form Number: HUD-9834, 9834A, and 9834B.

Respondents: Businesses or Other For-Profit and Non-Profit Institutions.

Frequency of Respondents: On Occasion.

Estimated Burden Hours: 4,480.

Status: Reinstatement.

Contact: Judith L. Lemeshewsky, HUD, (202) 426-3944, John Allison, OMB, (202) 395-6880.

Date: June 2, 1988.

[FR Doc. 88-13146 Filed 6-9-88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Meeting of FWS Migratory Bird Regulations Committee

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: The U.S. Fish and Wildlife Service Migratory Bird Regulations Committee will meet to review preliminary information on the status of waterfowl on the breeding grounds and the status of other migratory birds in 1988.

DATE: June 21, 1988.

ADDRESS: The meeting will be held in the North Penthouse, Room 8068, Main Interior Building, 18th and C Streets NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, telephone AC 202–254–3207.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service Migratory Bird Regulations Committee, including Flyway Council Consultants to the Committee, will meet in Washington, DC on June 21 at 8:30 a.m. in the North Penthouse, Room 8068, Main Interior Building to receive and consider staff reports on the 1988 status of migratory birds.

The reports will include preliminary waterfowl breeding population estimates, pond indexes, and other information on habitat conditions on the breeding grounds. The status of other migratory birds will be reviewed as is usual at the early season regulations meeting. The primary purpose of opening the meeting to the Consultants and others is to provide all interested parties with preliminary information about the impact of continuing drought conditions on prairie and parklands breeding habitats. Additional information and a more complete assessment of 1988 conditions will be presented to the Committee at the regularly scheduled waterfowl status meeting to be held in Denver, Colorado on July 25, 1988. The status of other migratory birds will also be reviewed and regulations recommendations developed.

In accordance with Departmental policy regarding meetings of the Service Regulations Committee that are attended by persons outside the Department, this meeting will be open to public observation. Members of the public may submit to the Director written comments on the matters discussed.

Date: June 7, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88–13201 Filed 6–9–88; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[OR–080–84–6332–02; GP8–154]

Off-Road Vehicle Designations; Salem District, OR

June 2, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision.

SUMMARY: All public lands administered by the Bureau of Land Management in the 404,000-acre Westside and Eastside Planning Areas, Salem District, Oregon, are hereby designated as open, limited or closed to off-road motorized vehicle use.

The 404,000 acres affected by the designations are scattered throughout a 13-county area in western Oregon comprising the Bureau of Land Management's Alsea, Clackamas, Santiam, Tillamook and Yamhill Resource Areas. The open, limited and closed designations are the result of land-use decisions made in the Westside Salem and Eastside Salem Management Framework Plans (MFP) approved September 9, 1983, and September 30, 1983, respectively. Comments received from public meetings and numerous written responses on the draft MFP documents were considered in the decisionmaking process.

All designations are final as published today. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals. These designations will remain in effect until rescinded to modified by the Salem District Manager.

A. Open Designations

Areas which are designated open comprise 344,100 acres of public land (85 percent of the two planning areas). An open designation was determined appropriate for these lands since off-road motorized vehicle use is: (1) A legitimate recreational activity; (2) essential to the conduct of authorized uses other than recreation; and (3) not expected to adversely affect natural, scenic or cultural resources.

B. Limited Designations

Areas which are designated limited comprise 50,461 acres of public land (13 percent of the two planning areas). These areas are:

1. Developed Recreation Sites—16 sites totaling 845 acres. Motorized vehicle use is limited to designated roads.

2. Areas of Critical Environmental Concern—nine areas totaling 9,040 acres. Motorized vehicle use is limited to existing roads.

3. Visual Resource Management Class II Areas—scattered parcels totaling 15,700 acres. Motorized vehicle use is limited to existing roads and trails.

4. Older Forest Retention Areas—scattered parcels totaling 17,700 acres. Motorized vehicle use is limited to existing roads and trails.

5. Wildlife Areas—scattered parcels totaling 7,176 acres. Motorized vehicle use is precluded annually from August 1 through the closing date of Oregon's Roosevelt elk hunting season (usually in November) in the Slick Rock-Warnick Creek and Homestead Tie Road areas.

C. Closed Designations

Areas which are designated closed comprise 9,439 acres of public land (two percent of the two planning areas). These areas are:

1. Table Rock Wilderness—a designated Wilderness totaling 5,750 acres.

2. Pacific City Municipal Water Supply—an area totaling 80 acres.

3. Areas of Critical Environmental Concern—12 areas totaling 3,609 acres including:

a. Big Canyon (280 acres)
b. Carolyn's Crown (260 acres)
c. Grass Mtn. (730 acres)
d. High Peak-Moon Creek (1,525 acres)
e. Litle Grass Mtn. (42 acres)
f. Little Sink (80 acres)
g. Lost Prairie (60 acres)
h. Marys Peak (105 acres)
i. Saddleback Mtn. (135 acres)
j. Sheridan Peak (305 acres)
k. The Butte (40 acres)
l. Valley of the Giant (47 acres)

Expect for the Tillamook Resource Area, maps showing the location of all areas within the Westside and Eastside Planning Areas designated as either closed or limited to off-road motorized vehicle use are available for public

review at the Salem District Office, 1717 Fabry Road SE., Salem, OR 97306, Tel: (503) 399–5646. Maps covering designations in the Tillamook Resource Area are available for public review at the Tillamook Resource Area Headquarters, 6615 Officers Row, Tillamook, OR 97141, Tel: (503) 842–7546.

Van W. Manning,

District Manager.

[FR Doc. 88–13105 Filed 6–9–88; 8:45 am]

BILLING CODE 4310–33–M

[CA–060–08–4212–14; CA–21592]

California Desert District, Noncompetitive Sale of the United States Reversionary Interest in the Title to Recreation and Public Purposes Act Patent, Morongo Sanitary Landfill, San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Noncompetitive (Direct) Sale of Reversionary Clause in Recreation and Public Purposes Act Patent 1230733.

SUMMARY: The United States reversionary interest in the title to the following described lands has been determined to be suitable for disposal under section 203 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1713):

San Bernardino Meridian, California

T. 1 S., R. 4 E.,
Sec. 27: E½SW¼NW¼, S½NW¼SW¼NW¼, SW¼SW¼NW¼, SE¼NW¼; containing 75.00 acres.

These lands were conveyed to the County of San Bernardino by Patent 1230733 (February 5, 1963) pursuant to the Act of June 14, 1926, as amended (43 U.S.C. 869, *et seq.*). In accordance with the approved plan of development, a condition of the patent, the County of San Bernardino operates and maintains the Morongo sanitary landfill site on the lands.

The United States interest to be conveyed to the County of San Bernardino will consist of all provisions of Patent 1230733 which provide for (1) review and modification of charges for entrance to or use of the land or facilities thereon, and (2) reversion of title to the United States for any reason including but not limited to noncompliance with the approved plan of development, transfer of title or control of the lands by the patentee, and changes in land use by the patentee. All other existing patent terms, conditions and reservations not related to the United States interest to be conveyed will remain in effect.

The United States reversionary interest in Patent 1230733 is being offered at direct sale to the County of San Bernardino. The sale will be made on or about August 22, 1988. The appraised value of the remaining United States interest is 750 dollars. Sale of the reversionary interest is consistent with land use planning decisions and existing policy. There is no conflict with State or local plans and zoning. The public interest would be served by completing the sale.

Additional information concerning the sale is available at the Barstow Resource Area Office, 150 Coolwater Lane, Barstow, CA 92311 (619–256–3591) and the California Desert District Office, 1695 Spruce Street, Riverside, CA 92507.

For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, California Desert District at the above address. In the absence of any objections, this realty action shall become the final determination of the Department of the Interior, and the required payment requested from the County of San Bernardino. Such payment in full shall be in accordance with 43 CFR 1822.1–2.

Date: June 2, 1988.

E. Vernon Stephens,

Acting District Manager.

[FR Doc. 88–13043 Filed 6–9–88; 8:45 am]

BILLING CODE 4310–40–M

[OR 44113]

Realty Action: Notice of Direct Sale Benton County, Oregon

June 2, 1988.

AGENCY: Bureau of Land Management, Interior; [(OR–080–08–4212–14: GP8–153)]

ACTION: Notice of Realty Action.

The following described public land has been examined and determined to be suitable for transfer out of Federal ownership by direct sale under the authority of section 203 and 209 of the Federal Land Policy and Management Act of 1976, as amended (90 Stat. 2050; 43 U.S.C. 1713 and 90 Stat. 2757; 43 U.S.C. 1719), at not less than the fair market value:

Willamette Meridian, Oregon,

T. 14 S., R. 5 W.,
Sec. 18, Lot 1.

Containing 0.72 acre in Benton County, Oregon.

The land has not yet been appraised. Anyone wishing to know appraised value may inquire at the address shown below.

Upon publication of this notice in the **Federal Register**, the above-described land will be segregated from appropriation under the public land laws, including the mining laws excet the mineral leasing laws. The segregative effect of this notice of realty action shall terminate upon issuance of the patent, upon publication in the **Federal Register** of a termination of the segregation or 270 days from the date of publication, whichever occurs first.

The parcel is difficult and uneconomic to manage as a part of the public lands and is not suitable for managment by another Federal department or agency. The parcel is suitable for agricultural production and has been thought to be in private ownership for many years. The sale is consistent with the Westside Management Framework Plan and the public interest will be served by offering this parcel for sale.

The parcel is being offered to Charles F. and Esther M. Jensen, and Prince V. and Irene M. Baker, using direct sale procedures authorized under 43 CFR 2711.3–3. The parcel will be sold to Charles F. Jensen, et al., at fair market value without competitive bidding. The land will be conveyed subject to a reservation to the United States for rights-of-way for ditches or canals under the Act of August 20, 1890 (26 Stat. 391; 43 U.S.C. 945).

Detailed information concerning the sale is available for review at the Salem District Office.

For a period of 45 days from the data of publication of this notice, interested parties may submit comments regarding the proposed sale of the land to the Alsea Area Manager, 1717 Fabry Road SE., Salem, OR 97306. Any adverse comments will be reviewed by the Salem District Manager, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this action will become the final determination of the Department of the Interior.

Paul Jeske,

Acting Alsea Area Manager.

[FR Doc. 88–13042 Filed 6–9–88; 8:45 am]

BILLING CODE 4310–33–M

[NV–920–07–4133–12]

Review of Mineral Reports on WSAs; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of the availability of 25 mineral surey reports produced by the U.S. Gelogoical Survey/U.S. Bureau of Mines on 26 Bureau of Land Management Wilderness Study Areas (WSAs) in Nevada. Announcement of a

60-day comment period to obtain previously unknown mineral information on the areas.

SUMMARY: The Federal Land Policy and Management Act (Pub. L. 94–579) requires the U.S. Geological Survey and the U.S. Bureau of Mines to conduct mineral surveys on certain Bureau of Land Management (BLM) WSAs to determine the mineral values, if any, that may be present. In Nevada, 25 new reports on WSAs have been completed. This is the second set of reports to be released. This notice gives the public an opportunity to obtain the reports and to review and offer previously unknown mineral information on the WSAs. New public comment information/data will be screened by the BLM. The State Director of that agency may ask the Geological Survey or the Bureau of Mines to determine if the information contains significant new data or an interpretation that was not available at the time the mineral survey report was prepared. Geological Survey or the Bureau of Mines would determine if additional field investigations should be undertaken. Recommendations for the designation of an area as wilderness will be made to the Secretary of the Interior by the BLM. The Secretary shall, in turn, make recommendations to the President who will advise Congress. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

DATES: The public review of the 25 mineral survey reports named in this notice shall begin on June 15, 1988, and shall continue for 60 days (August 15, 1988).

ADDRESS: All data and written comments should be directed to the State Director (NV–920), Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520. Copies of 23 bulletins may be purchased from: Books and Open-File Reports Section, U.S. Geological Survey, Federal Center, Box 25425, Denver, CO 80255. One report is available through the U.S. Geological Survey's Map Distribution section and one report is available only through the Bureau at the Reno address noted below.

FOR FURTHER INFORMATION CONTACT: Jack Crowley, Minerals Division, (702) 784–5138, or Dave Wolf, Wilderness Coordinator, (702) 785–5748, Nevada State Office, Bureau of Land Management, P.O. Box 12000, 850 Harvard Way, Reno, Nevada 89520.

SUPPLEMENTARY INFORMATION: The 25 mineral reports available for review and for purchase are listed below. The price noted on bulletins is that charged by the Books and Open-File Reports Section, U.S. Geological Survey (303–276–7476) and includes third or fourth class mailing. First class or foreign mailings require an addition of ten percent.

High Rock Lake WSA, Humboldt County (USGS 1707–A), $1.25.
East Fork High Rock Canyon WAS, Humboldt and Washoe Counties (USGS 1707–B). $1.25.
Little High Rock Canyon WSA, Humboldt and Washoe Counties (USGS 1707–C). $1.25.
High Rock Canyon WSA, Washoe County (USGS 1707–D). $1.25.
Bluebell and Goshute Peak WSAs, Elko County (USGS 1725–C). $3.50.
Rough Hills WSA, Elko County (USGS 1725–D). $1,25.
Goshute Canyon WSA, Elko and White Pine Counties (USGS 1725–E). $1.50
Blue Lakes WSA, Humboldt County (USGS 1726–D) $1.50.
Black Rock Desert WSA, Humboldt County (USGS 1726–E) $1.50.
Desatoya Mountains WSA, Churchill and Lander Counties (USGS 1727–A) $1.50.
Clan Alpine Mountains WSA, Churchill County (USGS 1727–B) $1.50.
Mount Grafton WSA, Lincoln and White Pine Counties (USGS 1728–F) $2.00.
South Pahroc Range WSA, Lincoln County (USGS 1729–A) $1.25.
Mormon Mountains WSA, Lincoln County (USGS 1729–B) $1.50.
Meadow Valley Range WSA, Lincoln and Clark Counties (USGS 1729–C) (price to be set).
Mount Stirling WSA, Clark and Nye Counties (USGS 1730–B) $1.50.
Blue Eagel WSA, Nye County (USGS 1731–D) $1.25.
Antelope WSA, Nye County (USGS 1731–E) $1.75.
Park Range WSA, Nye County (USGS 1731–F) $1.25.
Silver Peak WSA, Esmeralda County (USGS 1731–G) $1.50.
Riordans Well WSA, Nye County (USGS 1731–H) $3.25.
North Fork of the Little Humboldt River WSA, Humboldt County (USGS 1732–A) $1.00.
Little Humboldt River WSA, Elko County (USGS 1732–B) $2.00.
Muddy Mountains WSA, Clark County (USGS MF–171458–C) $1.50.[1]
Pine Creek (Red Rocks Escarpment) WSA, Clark County (USGS MF–1522) $5.00.[2]

[1] Available from USGS Map Distribution Section.
[2] Available from BLM Nevada State Office, Reno, NV. USGS out-of-print.

The reports are also available for review in the offices of the BLM in Nevada. Those are in Reno, Elko, Winnemucca, Carson City, Ely, Las Vegas, Battle Mountain, Caliente and Tonopah. Libraries with copies include the Nevada State Library in Carson City; the Government Documents Section of the University of Nevada, Las Vegas, Library; and the Mines Library of the University of Nevada, Reno. Community libraries which have been sent copies are located in the following Nevada cities: Fallon, Minden, Elko, Winnemucca, Pioche, Yerington, Hawthorne, Lovelock, Ely, Austin, Eureka, Caliente, Tonopay, Pahrump, Goldfield and Battle Mountain. Upon receipt of additional mineral survey reports on Nevada WSAs, additional comment periods will be held.

Date: June 1, 1988.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 88–13106 Filed 6–9–88; 8:45 am]

BILLING CODE 4310–HC–M

Minerals Management Service

Development Operations Coordination Document; Exxon Co. U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company U.S.A., Unit Operator of the Mississippi Canyon Block 280 Federal Unit Agreement No. 14–08–0001–20235, has submitted a DOCD describing the activities it proposes to conduct on the Mississippi Canyon Block 280 Federal unit. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Grand Isle, Louisiana.

DATE: The subject DOCD was deemed submitted on June 1, 1988.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Mike Nixdorff; Minerals Management Service; Gulf of Mexico OCS Region; Production and Development; Development and

Unitization Section; Unitization Unit; Telephone (504) 736–2660.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: June 3, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88–13107 Filed 6–9–88; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Exxon Co. U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 1619, Block 93, South Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Grand Isle, Louisiana.

DATE: The subject DOCD was deemed submitted on June 2, 1988.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Joseph; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties become effective December 13, 1979 (44 FR 53685). Those practices and procedures are set in revised § 250.34 of Title 30 of the CFR.

Date: June 3, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88–13108 Filed 6–9–88; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Shell Offshore Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 1666 and 1667, Blocks 289 and 290, respectively, Main Pass Area, offshore Louisiana and Mississippi. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Venice, Louisiana.

DATES: The subject DOCD was deemed submitted on June 3, 1988. Comments must be received on or before June 27, 1988, or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert, Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties become effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: June 3, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88–13109 Filed 6–9–88; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, Telephone 202–395–7313.

Title: Park Use Survey—Craters of the Moon N.M., Bryce Canyon N.P., Glen Canyon N.R.A., Denali, N.P.
Abstract: Results of the surveys will be used in operational, planning and management activities designed to support actual public use activities and needs
Bureau Form Number: None
Frequency: On occasion
Description of Respondents: Individuals and Households
Annual Responses: 2,200
Annual Burden Hours: 352
Bureau Clearance Officer: Russell K. Olsen, 523–5133

Russell K. Olsen,
Chief, Administrative Service Division.
[FR Doc. 88–13023 Filed 6–9–88; 8:45 am]
BILLING CODE 4310–02–M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Intent To Perform Interstate Transportation for Certain Nonmembers

Date: June 7, 1988:

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) and (2) Farmland Foods, Inc., P.O. Box 7527, Kansas City, MO 64116;
(3) P.O. Box 403, Denison, IA 51442;
(4) Richard T. Porath or William J. Wait, P.O. Box 403, Denison, IA 51442.

Noreta R. McGee,
Secretary.
[FR Doc. 88–13073 Filed 6–9–88; 8:45 am]
BILLING CODE 7035–01–M

Intent to Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

I. Parent Corporation and Address of Principal Office:

Emco Limited, 1108 Dundas Street, London, Ontario, CN, N5W 3A7.

Emco Limited was incorporated under the Laws of the Province of Ontario, Canada.

II. Wholly-Owned Subsidiaries Which will Participate In the Operations, and Jurisdiction of Incorporation:

Name and Address	Jurisdiction of Incorporation
Waltec Inc., 471 Dundas Street, Cambridge, Ontario, N1R 5X9.	Province of Ontario, CN.
Delta Fawcet Inc., 250 Baseline Road E., Bowmanville, Ontario, L1C 1A4.	Province of Ontario, CN.
BPCO Inc., 10, 500 Cotee de Liesse, Suite 200, Lachine, Quebec, H8T 3E3.	Province of Quebec, CN

Noreta R. McGee,
Secretary.
[FR Doc. 88–13074 Filed 6–9–88; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Consent Degree Pursuant to the Toxic Substances Control Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental, Response, Compensation and Liability Act; Texas Eastern Pipeline Co.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a Consent Decree in *United States* v. *Texas Eastern Transmission Corporation, d/b/a Texas Eastern Gas Pipeline Company*, Civil Action No. H88–1917, was lodged with the United States District Court for the Southern District of Texas on June 6, 1988. The Consent Decree concerns clean-up actions and cost recovery at 89 compressor station sites along a gas pipeline owned and operated by the Defendant. The compressor station sites are located in Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, Ohio, Pennsylvania, Tennessee, and Texas. A list of the compressor station sites is contained in Appendix A hereto. The complaint in this action alleges that the Defendant improperly managed and disposed of polychlorinated biphenyls and associated pipeline fluids at these compressor station sites. The Consent Decree provides that the Defendant will undertake a comprehensive program to clean up disposal pits and surface soils at the sites, conduct studies to determine if further clean-up is needed in off-site soils and groundwater, institute measures to eliminate discharges of pipeline liquids in the future, pay a civil penalty of $15 million, reimburse the federal government for past investigation and monitoring costs of up to $1.5 million, and reimburse the United States for similar future costs in an amount up to $18 million.

The Department of Justice will receive for sixty (60) days from the date of publication of this notice, written comments related to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, United States Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Texas Eastern Transmission Corporation, d/b/a Texas Eastern Gas Pipeline Company*, D.J. Ref. No. 90–5–1–1–2820.

The Consent Decree may be examined at: (1) The Office of the United States Attorney, Southern District of Texas, Courthouse and Federal Building, 515 Rusk Avenue, 3rd Floor, Houston, Texas 77002; (2) the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530; (3) the United States Environmental Protection Agency, Document Control Center (Pesticides.TSCA), 401 M Street SW., Washington, DC 20460; and (4) the following Regional offices of the Environmental Protection Agency: Region II, 26 Federal Plaza, New York, New York 10278; Region III, 841 Chestnut Street, Philadelphia, Pennsylvania 19107; Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365; Region V, 230 South Dearborn Street, Chicago, Illinois 60604; Region VI, 1201 Elm Street, Dallas, Texas 75270; and Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. A copy of the Consent Decree may be obtained in

person or by mail from the Environmental Enforcement Section, Land and Natural Resources Divison of the Department of Justice. Please enclose a certified check payable to "Treasurer, United States of America" for $33.40 (10 cents per page) to cover the costs of copying.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

Appendix A; Texas Eastern Transmission Corporation Compressor Station Sites

Alabama

Barton

Illinois

Lick Creek (10)
Norris City (11)

Indiana

Batesville (15)
French Lick (13)
Oakland City (12) (Princeton)
Seymour (14)

Arkansas

Bald Knob (06)
Donaldson (02)
Hope (03)
North Little Rock (05)
Pollard (08) (Fagus)
Walnut Ridge (07) (Egypt)

Kentucky

Danville
Owingsville
Tompkinsville

Louisiana

Caillou Island
Castor
Gillis
Grand Chenier
Greenwood Field
Iowa Plant
Lake Raccourci
LaRose
Monroe
New Roads
Opelousas
Pointe Au Chien
Providence
St. Francisville
White Castle
6" Line #4 MP 5.28 (located near Claiborne Parish, La. approximately 4.5 miles W.N.W. of Bernice, La.)
24" Line #11 MP 281.61 W. Red River (located approx. 14 mi. N.W. of Coushatta, La.)
24" Line #11 MP 282 E. Red River (located approx. 14 mi. N.W. of Coushatta, La.)

Ohio

Athens
Berne
Five Points (17) (Circleville)
Lebanon (16)
Somerset (18) (Crooksville)
Summerfield (19) (Sarahsville)
Wheelersburg

Tennessee

Gladeville
Mt. Pleasant

Maryland

Accident

Mississippi

Clinton
Egypt
Kosciusko
Union Church
Yazoo

Missouri

Oran (09)
10" Line #1–0 MP 9.81 (located approx. 3 mi. S.W. of Campbell, Mo.)

New Jersey

Hanover
Lambertville (26)
Linden (27A)

Pennsylvania

Armagh
Bechtelsville
Bedford (22A)
Bernville
Chambersburg (23)
Connellsville (21)
Delmont
Eagle (25)
Entriken
Grantville
Holbrook
Lilly
Marietta (24)
Marietta (24A)
Perulack (Leidy)
Rockwood (22)
Shermans Dale
Uniontown (21A)
Wind Ridge (20)

Texas

Atlanta
Blessing
Booth
Charco
Hempstead
Huntsville
Joaquin
Longview (01)
Lufkin
Mont Belvieu
Petronilla
Provident City
Santa Fe
Thomaston
Tivoli
Vidor

[FR Doc. 88–13126 Filed 6–9–88; 8:45 am]
BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 88–18]

Donald F. Kern D.D.S.; Revocation of Registration

This proceeding before the Drug Enforcement Administration (DEA), was inititated by an Order to Show Cause (Order) issued January 25, 1988, by the Deputy Assistant Administrator, Office of Diversion Control. The Order porposed to revoke DEA Certificate of Registration AK0624999, previously issued to Doanld F. Kern, D.D.S. of Virginia Beach, Virginia (Respondent). The statutory basis for the Order to Show Cause under 21 U.S.C 824(a)(2) was the Respondent's conviction in the United States District Court for the Eastern District of Virginia of distribution of cocaine in violation of 21 U.S.C. 841(a)(1), a felony offense under the Controlled Substances Act.

By the letter dated March 4, 1988, Respondent requested a hearing on the issues raised by the Order to Show Cause. The case was docketed before Administrative Law Judge Francis L. Young who issued an order for prehearing statements. In this order, Judge Young specifically cautioned Respondent that failure to timely file a prehearing statement would be considered a waiver of the hearing. Respondent failed to file a prehearing statement. After soliciting the opinion of Government counsel, Judge Young found that Respondent's failure to file a prehearing statement indicated that Respondent had no case to present and the administrative proceedings were then terminated.

The Administrator concurs with Judge Young that there is no need for a hearing in this matter since Respondent had failed to demonstrate that he has a case that he wishes to present. This agency has consistently held that failure to timely file a prehearing statement as ordered can lead to a finding that a party has waived its opportunity for a hearing. *See Medical Center Pharmacy*, Docket No. 87–66, 53 FR 13202 (1988); *Homested Pharmacy of Boston, Inc.* Docket No. 83–33, 49 FR 7304 (1984), and cases cited therein. Accordingly, the Administrator find that Respondent has waived his opportunity for a hearing and how enters his final order without a hearing and based on the investigative

file and the record as it appears. 21 CFR 1301.54(d), 1301.54(e) and 1301.57.

The Administrator finds that beginning in June 1985, Federal and state law enforcement officials received evidence that Respondent was selling quantities of cocaine to various individuals throughout the Tidewater, Virginia area. Their investigation also revealed that Respondent was financing the distribution of over a kilogram of cocaine and had done so on at least 2 separate occasions.

Based on the above, Respondent was arrested and charged with distribution of cocaine, a felony relating to controlled substances. In a debriefing session with DEA agents, Respondent, accompanied by his attorney, admitted that he had bought and sold cocaine numerous times in the two years prior to his arrest. On June 19, 1987, Respondent was convicted in the United States District Court for the Eastern District of Virginia of distribution of cocaine, a violation of 21 U.S.C. 841(a)(1).

Title 21 U.S.C. 824(a)(2) authorizes the Administrator to revoke a Certificate of Registration upon a finding that a registrant "has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States or of any State, relating to any substance defined in this subchapter as a controlled substance."

Having found that Respondent has been convicted of a felony relating to controlled substances and that such constitutes ground for revocation of Respondent's Certificate of Registration, the Administrator concludes that such registration should be revoked. Therefore, pursuant to authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), the Administrator orders that DEA Certificate of Registration AK6624999 previously issued to Respondent be, and it hereby is, revoked. It is further ordered that any pending applications for renewal of Respondent's registration be, and they hereby are, denied.

This order is effective July 11, 1988.

June 3, 1988.

John C. Lawn,

Administrator.

[FR Doc. 88-13121 Filed 6-9-88; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 88-13]

Raymond Lyman, D.M.D., Revocation of Registration

On January 25, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (Order) to Raymond Lyman, D.M.D., 28 N. Main St., Blanding, Utah (Respondent). The Order proposed to revoke Respondent's DEA Certificate of Registration, AL2383862, on grounds that Respondent is not currently authorized to handle controlled substances in the State of Utah. On January 29, 1988, the Order was served on Respondent who then requested a hearing to determine all issues raised by the Order. Before a hearing date was set, the Government moved for a summary disposition of the case alleging that the Division of Occupational and Professional Licensing of the State of Utah (DOPL) had revoked Respondent's State license to practice dentistry on May 20, 1987, and that, therefore, Respondent was not duly authorized to possess, prescribe, dispense or otherwise handle controlled substances in the State of Utah. The motion was supported by an order from the Director of the DOPL revoking Respondent's State license to practice dentistry.

On April 4, 1988, Respondent filed a response to the Motion for Summary Disposition, asserting that his license was revoked for one year on April 27, 1987, that his attorney had filed a motion with "the board," apparently seeking Respondent's reinstatement, and that within four to six weeks Respondent would be authorized to handle controlled substances in Utah. In response, the Government filed a letter from the Director of the DOPL stating that the Respondent had not contacted their office and even if he had done so it would be unlikely that he would become licensed in the near future. Respondent provided no documentation to the contrary. On May 9, 1988, the Administrative Law Judge granted the Government's motion for summary disposition and recommended that Respondent's registration be revoked.

The Administrator has consistently held that a practitioner may not be registered if he is not authorized to handle controlled substances by the State in which he practices. 21 U.S.C. 823(f) and 824(a)(3). *Emerson Emory, M.D.*, Docket No. 85-46, 51 FR 9543 (1986); *Avner Kauffman, M.D.*, Docket No. 85-8, 50 FR 34208 (1985).

In the instant case, the action by the Division of Licensing is conclusive, and it is clear that Respondent's license to practice dentistry has been revoked. In such a case, a Motion for Summary Disposition is properly entertained and must be granted. It is settled that when no fact question is involved, an adversarial hearing is not required. *U.S. v. Consolidated Mines and Smelting Co., Ltd.*, 455 F.2d 432, 453 (9th Cir. 1971); see *NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO, Local 433*, 549 F.2d 634 (9th Cir. 1977); *Alfred Tennyson Smurthwaite, M.D.*, Docket No. 77-29, 43 FR 11873 (1978); *Philip E. Kirk, M.D.*, Docket No. 82-36, 48 FR 32887 (1983), *Aff'd sub nom Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Administrator finds the Respondent is not licensed in the State of Utah and concurs with the recommendation of the Administrative Law Judge that Respondent's registration should be revoked and any pending applications should be denied. Therefore, pursuant to 21 U.S.C. 824(a)(3) and 28 CFR 0.100(b), the Administrator hereby orders that Certificate of Registration AL2383862, previously granted to Raymond Lyman, D.M.D. is revoked. The Administrator further orders that any pending applications for renewal of such registration, be, and they hereby are, denied.

This Order is effective immediately.

John C. Lawn,

Administrator.

June 3, 1988.

[FR Doc. 88-13122 Filed 6-9-88; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 86-93]

Leo R. Miller, M.D.; Revocation of Registration

On December 10, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Leo R. Miller, M.D. (Respondent) on New York, New York, proposing to revoke his DEA Certificate of Registration AM1852474, and deny any pending applications for renewal of that registration. The statutory basis for the proposed revocation was that Respondent's continued registration would be inconsistent with the public interest based upon: (1) His lack of authority by the State of New York to dispense Schedule II controlled substances; (2) his prescribing of controlled substances to drug dependent individuals for maintenance purposes without being registered to do so; and, (3) his prescribing of controlled substances outside the scope of professional practice and not for a legitimate medical purpose.

Respondent, through counsel, requested a hearing by letter dated January 21, 1987. The matter was docketed before Administrative Law Judge Francis L. Young. Following

prehearing filings, a hearing was held in Washington, DC on September 9, 1987. Judge Young issued his opinion and recommended ruling, findings of facts, conclusions of law and decision on December 31, 1987. Respondent filed exceptions to the Administrative Law Judge's opinion and recommended ruling. The Administrative Law Judge transmitted the record in this matter to the Administrator on April 12, 1988. The Administrator, having considered the record in its entirety, hereby enters his final order in this matter pursuant to 21 CFR 1316.67.

The Administrative Law Judge found that an investigation conducted in 1983 by authorities from the State of New York resulted in the revocation of Respondent's privileges to utilize New York State triplicate prescriptions by the New York State Department of Health. The Health Department also assessed a $35,000 civil penalty against Respondent. This action effectively terminated Respondent's authority to prescribe and dispense Schedule II controlled substances. In 1987, the Commissioner of Education, State of New York, Board of Regents, placed Respondent's license to practice medicine in the State of New York on probation for two years. The Commissioner found Respondent guilty of professional misconduct in that he unlawfully prescribed controlled substances not in good faith and not for a legitimate medical purpose during the period 1976 through August 1983 on a regular basis to at least 40 patients who were habitual drug users, in order to keep such users comfortable in their habits.

The Administrative Law Judge found that Respondent wrote hundreds of prescriptions for Tuinal, a combination short acting and intermediate acting Schedule II barbituate during 1981 and 1982. When questioned about these prescriptions by a New York State investigator, Respondent stated he would rather give the individuals prescriptions than have them get the drugs on the street. At the hearing in this matter, Respondent continued to maintain that patients were better off receiving Tuinal in a controlled situation, such as under his care, than obtaining it on the street. The Administrative Law Judge concluded that Respondent did not exhibit an appropriate awareness of the potential danger of controlled substances and the hazards they may pose to individuals particularly susceptible to those hazards, and that Respondent should not be entrusted with a DEA registration.

On February 22, 1988, Respondent filed exceptions to the opinion and recommended ruling of the Administrative Law Judge. Respondent argued that the action of the New York State licensing agency, placing Respondent on probation and requiring his prescribing and dispensing practices to be monitored, should be given greater deference by the Administrative Law Judge. The Administrative Law Judge, in his opinion and recommended ruling, found that the monitoring of Respondent's prescribing practices by the New York State Office of Professional Medical Conduct is not sufficiently strict to be an effective deterrent. The Administrative Law Judge relield instead on the findings of both the New York Department of Health and the New York Board of Regents which concluded that Respondent's activities were unprofessional and constituted unlawful prescribing of controlled substances.

Respondent also argues that the Administrative Law Judge incorrectly found that some of Respondent's patients were habitual users of controlled substances. Respondent indicates that the Administrative Law Judge based that conclusion on Respondent's written statement. In his opinion and recommended ruling, the Administrative Law Judge indicates that New York State authorities found these patients to be habitual users of controlled substances, and that he found no reason to reject that conclusion.

Respondent further argues that the Administrative Law Judge failed to consider the testimony of Dr. Yapalater. Dr. Yapalater's testimony, that Respondent prescribed controlled substances for legitimate medical purposes, if contradicted by the testimony of Dr. Edelman as well as the findings of the New York Department of Health and the New York Board of Regents. The weight of the evidence requires a finding that Respondent prescribed controlled substances, not in good faith, and not for legitimate medical purposes from 1977 through August 1983.

Respondent finally aargues in his exceptions that the recommended "penalty" of the Administrative Law Judge is too severe in light of the length of time that has passed since Respondent's violations and the fact that New York State has returned Respondent's privileges to utilize triplicate prescriptions. The revocation of a DEA Certificate of Registration is not a penalty or a punative measure. It is a remedial measure, based upon the public interest and the necessity to protect the public from those individuals who have misused controlled substances or their DEA Certificate of Registration, and who have not presented sufficient mitigating evidence to assure the Administrator that they can be trusted with the responsibility carried by such a registration. It should also be noted that there was no evidence in the record that the State of New York had reinstated Respondent's triplicate prescription authority. Respondent first mentioned such a possibility in his exceptions to the Administrative Law Judge's opinion and recommended ruling. The Government has had no opportunity to respond to Respondent's statement, which emphasizes the necessity for an open hearing where each party has the opportunity to respond to evidence presented by the other party to the proceeding. The Administrator will not consider such proffered documents unless they are properly admitted into evidence and the opposing party has an opportunity to object to or rebut such evidence.

The Administrative Law Judge recommended that Respondent's DEA Certificate of Registration be revoked because the evidence demonstrated that Respondent could not be trusted with a registration. The Administrator adopts the opinion and recommended decision of the Administrative Law Judge in its entirety. The Administrator concludes that based upon Respondent's past conduct with regard to the prescribing of controlled substances to individuals who had a history of drug abuse over an extended period of time, his registration is inconsistent with the public interest.

Accordingly, the Administrator of the DEA, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AM1852474 previously issued to Leo R. Miller, M.D., be, and it hereby is, revoked. Any pending applications for renewal of that registration are hereby denied.

This order is effective July 11, 1988.

John C. Lawn,

Administrator.

Dated: June 6, 1988.

[FR Doc. 88-13123 Filed 6-9-88; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibiliites under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 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.

Revision

Bureau of Labor Statistics

Information on the Employment Cost Index: 1220-0038, BLS 3038A, 3038B, 3038C, 3038D, 3038E/T, and 3038E/M
Quarterly,
State and local governments, Business or other for-profit; non-profit institutions; small business or organizations
22,364 responses; 22,564 hours; 6 forms
Employment Cost Index measures trends in employee compensation costs. The ECI is used to analyze the relationships between changes in productivity, employment, output prices, and compensation costs. The survey covers the private nonfarm economy and State and local governments.

Paul E. Larson,
Departmental Clearance Officer.

[FR Doc. 88-13166 Filed 6-9-88; 8:45 am]
BILLING CODE 4510-24-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution

Avenue NW., Room S-3504, Washington, DC 20210.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice Langlade County, Wisconsin from General Wage Determination No. WI88-2 and Oconto County, Wisconsin from General Wage Determination No. WI86-15 dated January 8, 1988.

Agencies with construction projects pending to which this wage decision would have been applicable should utilize the project determination procedure by submitting an SF-308. See Regulations Part 1 (29 CFR), § 1.5. Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR 1.6(c)(2)(i)(A), the incorporation of the withdrawal decision in contract specifications, when the opening of bids is within ten (10) days of this notice, need not be affected.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

District of Columbia:
DC88-1 (Jan. 8, 1988) ..... pp. 78, 81-82, 84.
Virginia:
VA88-17 (Jan. 8, 1988) ..... p. 1160b.
VA88-18 (Jan. 8, 1988) ..... p. 1160f.

Volume II

Wisconsin:
WI88-2 (Jan. 8, 1988) ..... p. 1087.
WI88-15 (Jan. 8, 1988) ..... p. 1161.
Listing by location (index) ..... p. 1i.

Volume III

California:
CA88-2 (Jan. 8, 1988) ..... p. 48.
Colorado:
CO88-4 (Jan. 8, 1988) ..... p. 120.
Hawaii:
HI88-1 (Jan. 8, 1988) ..... pp. 132-133, 135.
Idaho:
ID88-1 (Jan. 8, 1988) ..... pp. 142, 147.
North Dakota:
ND88-1 (Jan. 8, 1988) ..... p. 222.
ND88-3 (Jan. 8, 1988) ..... p. 234.
Washington:
WA88-1 (Jan. 8, 1988) ..... pp. 360-365, 368, 375-376.
WA88-2 (Jan. 8, 1988) ..... pp. 386, 388-389, 393.
WA88-6 (Jan. 8, 1988) ..... p. 412.
WA88-7 (Jan. 8, 1988) ..... pp. 414, 416-418.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 3rd day of June 1988.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 88-12923 Filed 6-9-88; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

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 person 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 20, 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 20, 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 31st day of May 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Worker/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Bentley Industries, Inc. (IUE)	Evans City, PA	5/31/88	5/6/88	20,696	Display Fixtures.
Chicago Pneumatic Tool Co. (OPES)	Utica, NY	5/31/88	5/12/88	20,697	Tools.
Cornelison Engine, Maintenance Co., Inc. (Company).	Seminole, OK	5/31/88	5/19/88	20,698	Rebuild Engines, Supply Parts & Labor.
Commercial Testing & Engineering Co	Charleroi, PA	5/31/88	5/19/88	20,699	Analyzes Coal.
Diamond Power Specialty (USWA)	Lancaster, OH	5/31/88	5/16/88	20,700	Blower Cleaning Equipment.

APPENDIX—Continued

Petitioner (Union/Worker/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Foster Grant Co. (RWDSU)	Leominster, MA	5/31/88	5/12/88	20,701	Lenses and Glass.
General Electric Co. (Workers)	Evendale, OH	5/31/88	5/20/88	20,702	Aircraft Engines & Parts.
Health-Tex, Inc.—(Diamond Hill) (ACTWU)	Cumberland, RI	5/31/88	5/16/88	20,703	Children's Clothing.
Jaton, Corporation (ILGWU)	Boston, MA	5/31/88	5/16/88	20,704	Ladies Skirts.
Mellon Bank Corp. (Workers)	Pittsburgh, PA	5/31/88	5/16/88	20,705	Financial Services.
Omnisport, Inc. (ACTWU)	Woonsocket, RI	5/31/88	5/16/88	20,706	Athletic Award Jackets.
Comphies Inc. (Workers)	Lawrence, MA	5/31/88	5/20/88	20,707	Womens' Footwear.
Presswell Records Mfg. Co. (Workers)	Ancora, NJ	5/31/88	5/19/88	20,708	Pressed Vinyl Phonograph Records.
Westwood Lighting Group, Inc. (ACTWU)	Paterson, NJ	5/31/88	5/13/88	20,709	Lamps & Accessories.
Whitney Supply Co. (Workers)	Tulsa, OK	5/31/88	5/19/88	20,710	Oil Country Tubular Goods, Oil Field Supplies.

[FR Doc. 88-13167 Filed 6-9-88; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade 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 23, 1988—May 27, 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 or 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 decreased 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-20,540; Sunbury Dress, Cranston, RI

TA-W-20,548; Chrysler Crop., Milwaukee, WI

TA-W-20,547; Cambridge Shirt Manufacturing Co., Hazelton, PA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-20,598; International Paper Co., Gardiner Sawmill, Gardiner, OR

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,565; J I Case Co., Burlington, IA

U.S. imports of wheel-type front-end loaders and backhoes which include the loader backhoes declined absolutely and relative to domestic shipments in 1987 compared to 1986.

TA-W-20,570; Mesa Limited Operating Partnership, Amarillo, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,629; Seco Tools, Fairfield, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,588; Curtis Bay Towing, Philadelphia, PA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-20,590; Taylor Marine, Philadelphia, PA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-20,576; Colorado Westmoreland, Inc., Orchard Valley West Mine, Paonia, CO

U.S. imports of bituminous steam coal are negligible.

TA-W-20,602; USS Vandergrift Plant, Vandergrift, PA

U.S. imports of electrical steel sheet and strip declined absolutely and relative to domestic shipments in 1987 compared to 1986.

TA-W-20,589; McAllister Towing, Camden, NJ

The Workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

AFFIRMATIVE DETERMINATIONS

TA-W-20,571; National Broach & Machine, Mt. Clemens, MI

A certification was issued covering all workers engaged in the production of gear manufacturing machines separated on or after March 12, 1987.

TA-W-20,573; Texaco, Inc., Comptroller's Dept., New Orleans, LA

A certification was issued covering all workers separated on or after March 7, 1987.

TA-W-20,535; M.H. Fine Co., Allston, MA

A certification was issued covering all workers separated on or after March 9, 1987.

TA-W-20,567; K P Exploration, Inc., Houston, TX

A certification was issued covering all workers separated on or after March 14, 1987.

TA-W-20,567A; K P Exploration, Inc., Oklahoma City, OK

A certification was issued covering all workers separated on or after March 14, 1987.

TA-W-20,567B; K P Exploration, Inc., Guymon, OK

A certification was issued covering all workers separated on or after March 14, 1987.

I hereby certify that the aforementioned determinations were issued during the period May 23, 1988–May 27, 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 May 31, 1988.

[FR Doc. 88-13168 Filed 6-9-88; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-20,416]

SKF Industries, Inc., Hornell Division, Hornell, NY; Negative Determination on Reconsideration

On May 6, 1988, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of SKF Industries, Inc., Hornell Division, Hornell, New York. The Department's denial notice was published in the Federal Register on April 5, 1988 (53 FR 11147).

The Maple City Lodge #1975 claims that bearing accessory products are being imported from SKF in Sweden. The union also claims that when production ceases at Hornell, SKF will import ball units from a corporate plant in Mexico.

On reconsideration, the Department found that the Hornell plant had increased company imports of bearing accessories during the period applicable to the petition. However, accessory production at Hornell was minor in 1987 and the workers at Hornell were not separately identifiable by product.

Unit ball production at Hornell was not transferred to Mexico during the Department's investigation. However, a basis for certification may arise when this production is transferred and company imports of unit balls occur. At that time, a new petition for worker adjustment assistance would be appropriate.

Further, investigation findings show that the customer, mentioned by the union in its application for reconsideration, had increased purchases from SKF in 1987 compared to 1986.

Conclusion

After reconsideration, I affirm the original notice of negative determination regarding eligibility to apply for adjustment assistance to workers and former workers at SKF Industries, Inc., Hornell Division, Hornell, New York.

Signed at Washington, DC, this 27th day of May 1988.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 88-13169 Filed 6-9-88; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20, 482]

3M Co. Rochester, NY; Affirmative Determination Regarding Application for Reconsideration

By an application postmarked May 6, 1988, one of the petitioners requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of workers and former workers of the 3M Company, Rochester, New York. The negative determination was published in the Federal Register on May 3, 1988 (53 FR 15752)

The petitioner claims that 3M imports from Italy replaced finished coated X-ray film produced at Rochester in 1987. The petitioner also claims that imported finished coated X-ray film was included in Rochester's X-ray production data for 1987.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 27th day of May 1988.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 88-13170 Filed 6-9-88; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-88-81-C]

Drummond Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama 35202 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 Mary Lee No. 1 Mine (I.D. No. 01-00515) and its Mary Lee No. 2 Mine (I.D. No. 01-00821) both located in Walker County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. As an alternate method, petitioner proposes to install and maintain a carbon monoxide monitoring system utilizing belt air to ventilate the active working places as follows:

3. An early warning detection system would be installed. A low-level carbon monoxide detection system would be installed in all belt entries utilized as intake aircourses. The low-level CO system would be capable of giving warning of a fire for four hours should the power fail; a visual alert signal would be activated when the CO level is 10 ppm above the ambient level and an audible signal would sound at 15 ppm above the established ambient level. All persons would be withdrawn to a safe area at 10 ppm and evacuated at 15 ppm. The CO monitoring system would initiate the fire alarm signals at an attended surface location where there is two-way communication. This responsible person would notify the working sections and other personnel who may be endangered, when the established alert and alarm levels are reached. The CO system would be capable of identifying any activated sensor and for monitoring electrical continuity and deleting electrical malfunctions.

4. The CO monitoring system would be visually examined at least once each coal producing shift and tested for functional operation weekly to ensure the monitoring system is functioning properly. The monitoring system would be calibrated with known concentrations of CO and air mixtures at least monthly.

5. If at any time the CO monitoring system or any portion of the system has been deenergized for reasons such as routine maintenance or failure of a sensor unit, the belt conveyor may continue to operate provided the affected portion of the belt conveyor entry would be continuously patrolled and monitored for CO by a qualified person using hand-held CO detecting devices.

6. The details for the fire detection system including, but not limited to, type of monitor and specific sensor location on the mine map would be included as a part of the Ventilation System and Methane Dust Control Plan.

7. 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

11, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: June 2, 1988.

[FR Doc. 88-13171 Filed 6-9-88; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Maryland State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribed procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the Federal Register (38 FR 17834) of the approval of the Maryland State plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State plan provides for the adoption of all Federal standards as State standards after comments and public hearing. Section 1952.210 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letter dated September 18, 1987, from Commissioner Henry Koellein, Jr., Maryland Division of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards identical to: (1) 29 CFR 1910.19, Subpart Z, and 1910.1001, pertaining to revisions relating to Asbestos, Tremolite, Anthophyllite and Actinolite as published in the Federal Register of June 20, 1986 (51 FR 22732) and (2) 29 CFR 1910.1001, 1910.1101, and 1926.58, pertaining to corrections and revisions relating to Asbestos, Tremolite, Anthophyllite and Actinolite as published in the Federal Register of October 17, 1986 (51 FR 37004). These standards are contained in COMAR 09.12.31. Maryland Occupational Safety and Health Standards were promulgated after public hearings on July 18, 1986. These standards were effective on September 17, 1987. By an additional letter, dated January 7, 1988, from Commissioner Henry Koellein, Jr., Maryland Division of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards identical to: (1) 29 CFR 1910.1001, 1910.1101, and 1926.58, pertaining to amendments and corrections relating to Asbestos, Tremolite, Anthophyllite and Actinolite as published in the Federal Register of April 30, 1987 (52 FR 15722) and (2) 29 CFR 1910.1001, 1910.1101, and 1926.58, pertaining to amendments, corrections and revisions relating to Asbestos, Tremolite, Anthophyllite and Actinolite as published in the Federal Register of May 12, 1987 (52 FR 17752). These standards are contained in COMAR 09.12.31. Maryland Occupational Safety and Health Standards were promulgated after public hearings on November 6, 1987. These standards were effective on January 14, 1988.

2. Decision

Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and, accordingly, are approved.

3. Location of Supplements for Inspection and Copying

A copy of the standards supplements, along with the approved Maryland State plan, may be inspected and copied at the following locations during normal business hours: Office of the Regional Administrator, Occupational Safety and Health Administration, 3535 Market Street, Suite 2100, Philadelphia, Pennsylvania 19104; Office of the Commissioner, Maryland Division of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202; and the Office of State Programs, Occupational Safety and Health Administration, Room N-3700, Third Street and Constitution Avenue NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Virginia State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

a. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

b. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective June 10, 1988.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)

Signed at Philadelphia, Pennsylvania this 2nd day of February 1988.

Linda R. Anku,

Regional Administrator.

[FR Doc. 88-13172 Filed 6-9-88; 8:45 am]

BILLING CODE 4510-26-M

North Carolina Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On February 1, 1973, notice was published in the Federal Register (28 FR 3041) of the approval of the North Carolina plan and the adoption of Subpart I to Part 1952 containing the decision.

The North Carolina Plan provides for the adoption of Federal standards as State standards by reference. Section 1953.20 of 29 CFR provides that "When * * * any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State Plan shall be required." By letter dated July 22, 1986 from Michael D. Ragland, Deputy Commissioner for Safety and Health, Occupational Safety and Health Division, North Carolina Department of Labor, to Alan C. McMillan, Regional Administrator, and incorporated as a part of the State Plan, the State submitted the following amended State standards comparable to Federal Standards: Revised 29 CFR 1926.55, Gases, Vapors, Fumes, Dusts, and Mists, dated June 20, 1986; Revised 29 CFR

1926.58, Asbestos, Tremolite, Anthophyllite, and Actinolite, dated June 20, 1986.

These standards were promulgated by filing with the North Carolina Attorney General and became effective on September 1, 1986; pursuant to the North Carolina Occupational Safety and Health Act of 1973 (Chapter 295, General Statutes).

2. Decision

Having reviewed the State submission in comparison with Federal standards, it has been determined that the State standards are identical to the Federal standards. The State standards are hereby approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, North Carolina Department of Labor, 11 West Edenton, Raleigh, North Carolina 27611; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30367; and Director of Federal State Operations, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the North Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective June 10, 1988.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 2nd day of October 1987.

Note.—This document was received by the Office of the Federal Register June 7, 1988.

Karen L. Mann,

Regional Administrator.

[FR Doc. 88-13173 Filed 6-9-88; 8:45 am]

BILLING CODE 4510-26-M

Wyoming State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the **Federal Register** (39 FR 15394) of the approval of the Wyoming Plan and adoption of Subpart BB to Part 1952 containing the decision.

The Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee coordination.
2. Publication in newspapers of general/major circulation with a 45-day waiting period for public comment and hearings.
3. Adoption by the Wyoming Health and Safety Commission.
4. Review and approval by the Governor.
5. Filing with Secretary of State and designation of an effective date.

OSHA regulations (29 CFR 1953.22 and 23) require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the **Federal Register**, and within 30 days for emergency temporary standards. Although adopted State standards or revisions to standards must be submitted for OSHA review and approval under procedures set forth in Part 1953, they are enforceable by the state prior to federal review and approval. By letter dated February 3, 1988, from John T. Chambers, Assistant Administrator, Wyoming Occupational Health and Safety Division, to Byron R. Chadwick, OSHA Regional Administrator, the State submitted rules and regulations in response to Federal OSHA's General Industry Standards (29 CFR 1910.1001: Asbestos, Tremolite, Anthophyllite, and Actinolite; 52 FR 17752, May 12, 1987; 29 CFR 1910.145: Specifications for Accident Prevention Signs and Tags, 51 FR 182, September 19, 1986).

The above adoptions of Federal standards have been incorporated in the State Plan, and are contained in the Wyoming Occupational Health and Safety Rules and Regulations for General Industry, as required by Wyoming Statute 1977, Section 27-11-105(a)(viii).

State standards for 29 CFR 1910.1001: Asbestos, Tremolite, Anthophyllite, and Actinolite and 29 CFR 1910.145: Specifications for Accident Prevention Signs and Tags were adopted by the Health and Safety Commission of Wyoming on August 14, 1987 (effective October 13, 1987), pursuant to Wyoming statute 1977, Section 27-11-105. These State standards are substantially identical to the Federal standard actions, except for the following minor differences: (a) Paragraph numbering; (b) minor wordage appropriate to the Wyoming statues.

2. Decision

The above State Standards have been reviewed and compared with the relevant Federal Standard. It has been determined that the State standards are substantially identical to the Federal standards, and are accordingly approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 1576, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; the Occupational Health and Safety Department, 604 East 25th Street, Cheyenne, Wyoming 82002; and the Office of State Programs, Room N-3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason(s):

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective June 10, 1988.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Denver, Colorado this 4th Day of April, 1988.

Bobby E. Glover,

Acting Regional Administrator.

[FR Doc. 88-13174 Filed 6-9-88; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefits Administration

[Application No. D-736 et al.]

Proposed Exemptions; Spencer Cliff Corporation Profit Sharing et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210. Attnetion: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Spencecliff Corporation Profit Sharing Plan (the Plan) Located in Honolulu, Hawaii

[Application No. D-7361]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (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 by the Plan of certain real property (the Property) to Spencecliff Corporation (the Employer) and the transfer of an existing lease on the Property from the Plan to the Employer, provided the Plan receives no less than fair market value for the Property at the time of sale.

Summary of Facts and Representations

1. The Plan is a profit sharing-plan having approximately 1,027 participants and total assets of $2,205,448 as of August 31, 1987. The Employer, the sponsor of the Plan, is a corporation engaged primarily in the food service and restaurant business in the State of Hawaii.

2. The subject Property is located in the Moanalua light industrial section of Honolulu near Honolulu International Airport. The Property is comprised of two lots (Lot 104 and Lot 105) with a total land area of 44,959 square feet, both of which were acquired prior to passage of the Act in 1974, and improvements consisting of a two-story combination flight kitchen, warehouse and office building constructed on about 22,000 square feet of the Property. Lot 104 was purchased from an unrelated party, while Lot 105 was purchased from the Employer. The improvements were constructed on the Property with Plan funds before passage of the Act. The Property (including the land) is currently leased to Sky Chefs, a division of Flagship International, Inc. (Flagship) and is subleased to American Pacific Transport Company, Ltd. (American Pacific). The applicant represents that Flagship and American Pacific are unrelated to the Plan and to the Employer. The present rent for the Property is $136,992 per annum, to be renegotiated after December 31, 1995. The lease is scheduled to terminate twenty years after that date. The current lessee built an additional warehouse structure on the land in 1970. That additional warehouse is not owned by the Plan and is not involved in the proposed transaction.

3. The Plan obtained an appraisal on the Property on February 23, 1987 (supplemented by a letter dated December 18, 1987) from Larry Medeiros (Medeiros), a real estate appraiser located in Honolulu. The applicant represents that Medeiros is independent of the Plan and the Employer. The purpose of the appraisal is to estimate the fair market value of the leased fee interest (lessor's interest) in the Property under the existing lease. The applicant represents that the value of the lessor's interest rather than a fee simple valuation is the relevant value because the Property is being sold subject to an existing lease to parties unrelated to the Plan or the Employer. Medeiros made a search of land values in the immediate areas of the Property for recent comparable transactions involving the transfer of fee interests of properties under similar zoning. Placing emphasis on the income approach to value, Medeiros capitalized the current and expected rental income on the Property and added to that figure the lessor's interest in the leased land. Accordingly,

Medeiros estimated that the fair market value of the lessor's interest in the Property (including the improvements owned by the Plan) as of January 1, 1987, was approximately $1,500,000.

4. In a letter dated January 30, 1987, the Honolulu area office of the Department concluded, as a result of an investigation of the activities of the Plan, that the Property accounted for too high a percentage of Plan assets and that the investments of the Plan were not sufficiently diversified. Thus, the Plan proposes to sell the Property to the Employer. The Employer will pay no less than current fair market value for the Property at the time of sale, based on an updated independent appraisal. The sale will be entirely for cash, and the Plan will pay no commissions or fees in regard to the transaction. The Property will be sold subject to the existing lease, which will be transferred to the Employer at the time of sale. The Plan will reinvest the proceeds of the sale in assets which should produce as much or more income and appreciation for the Plan and which should increase the diversification of Plan investments.

5. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (1) The sale of the Property will be entirely for cash and the Plan will pay no commissions or fees in connection with the sale; (2) the Employer will pay no less than current fair market value for the Property, based on an updated independent appraisal; (3) the proceeds of the sale will be reinvested in assets which should produce as much or more income and appreciation as the Property; and (4) the transaction will increase the diversification of the assets of the Plan.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Meridian Bancorp, Inc. Savings Plan (the Plan), Located in Reading, Pennsylvania

[Application No. D-7440]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 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 on March 31, 1987 by the Plan to Meridian Bancorp, Inc. (the Sponsor), a party in interest with respect to the Plan, of a unit of limited partnership interest in Plantation Place Mortgage Company, Ltd. (Partnership 1) and a unit of limited partnership interest in Winston Apartments Mortgage Company (Partnership 2), for a price consisting of the face value of such units (the Units) plus quarterly distributions accrued thereon from July 1, 1986 through March 31, 1987, provided said price was no less than the fair market value of the Units at the date of the Sale.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective March 31, 1987.

Summary of Facts and Representations

1. The Plan is a defined contribution thrift plan covering approximately 4,013 paticipants as of December 22, 1987. As of December 31, 1986, the Plan's assets totalled $48,732,656.17. Investment decisions for the Plan are made by Meridian Investment Company (the Investment Manager), a subsidiary of the Sponsor. Meridian Trust Company (the Trustee), another subsidiary of the Sponsor, is the trustee of the Plan.

2. Partnership 1 was formed to provide a $1,300,000 second mortgage loan to Plantation Place Associates, Ltd. (Borrower 1), a limited partnership formed for the purpose of acquiring a 184-unit garden apartment complex located in Arlington, Texas. The loan requires quarterly payments of interest only at the rate of 13% per annum on the outstanding principal balance thereof, which is due on March 1, 1990. Although the loan is without recourse to the borrower, it is secured by a second lien on the apartment complex and is personally guaranteed by the husband of the general partner of Partnership 1. The first mortgage on the property is approximately $2,760,000. The applicants represent that Mrs. Phyllis A. Katz (Mrs. Katz), the general partner of Partnership 1, is not a party in interest with respect to the Plan and that neither the Sponsor nor any of its subsidiaries had any dealings with Mrs. Katz prior to the Plan's acquisition of the Units.

3. Partnership 2 was formed to provide a $2,100,000 first lien mortgage loan to Winston Apartments Company (Borrower 2) for a 112-unit garden apartment project in San Antonio, Texas. When Partnership 2 made its commitment to issue its permanent loan in 1980, the project had not yet been constructed. The project was completed and the mortgage loan was funded in May 1981. The permanent loan is a first mortgage loan providing for quarterly payments of interest only at the rate of 12% per annum on outstanding principal balance of the loan, which is due in full on December 31, 1991. The loan is without recourse to the borrower. The applicants represent that Mr. Aaron B. Katz (Mr. Katz), the general partner of Partnership 2 (and the husband of Mrs. Katz), is not a party in interest with respect to the Plan and that neither the Sponsor nor any of its subsidiaries had any dealings with Mr. Katz prior to the Plan's acquisition of the Units.

4. In 1985, Meridian Title Insurance Company, a wholly-owned participating subsidiary of the Sponsor, acquired substantially all the assets of Congress Title Corporation, of Cherry Hill, New Jersey, which had theretofore maintained the Congress Title Corporation Profit Sharing Plan (the CTC Plan). As part of this acquisition, the CTC Plan was terminated, its assets (totalling approximately $923,000) were transferred to the Plan's Fund B, which invests primarily in certificates of deposit, Treasury bills and notes, and other short-term investments. The Units were among the assets transferred to the Plan effective April 1, 1986, although they were not actually received by the Plan until approximately July 1, 1986. The face value of the Unit in Partnership 1 was $65,000; that of the Unit in Partnership 2 was $83,160. (These face values equal the amounts of capital contributed to the Partnerships by the CTC Plan). When the Units were transferred to the Plan, the Investment Manager reviewed the private placement memoranda and certain other documents forwarded by the trustees of the CTC Plan. Appraisal reports dated November 5, 1985, for the projects owned by the Partnerships were among the documents received. The Sponsor and the Trustee did not question the appropriateness of the Plan's investment in the Units because, among other things, they appeared to be the equivalent of secured loans structured to yield returns of 13% and 12%, respectively.[1]

5. Although quarterly distributions were made by each of the Partnerships through the second quarter of 1986, reflecting corresponding debt service payments under the loans from the Partnerships, no further distributions were made due to defaults under these loans. The Plan continued to accrue the scheduled quarterly distributions as income, however, in accordance with its

[1] The Department is expressing no opinion herein as to whether the acquisition and holding of the Units violated any provision of Part 4, Subtitle B, of Title I of the Act.

regular accounting procedures. Correspondence received in late 1986 and early 1987 from the general partners of both Partnerships indicated that, as a result of a serious downturn in the rental real estate market in the southwestern United States, the loans to both Partnerships could not be repaid under their existing terms. Partnership 2's limited partners were asked to accept a reduced rate of repayment. For the loan from Partnership 1, abatement and modification of debt service for two years or less was requested. The Plan has received no further communication regarding these loans from the general partners of the Partnerships.

6. In early 1987 after receiving the above mentioned communications from the general partners of the Partnerships, the Trustee, the Investment Manager, and the Sponsor focused upon the deteriorating conditions of both Partnerships and determined that: (a) Quarterly distributions from both Partnerships were in default; (b) there was no market for the Units; (c) by their terms, the Units were not freely transferable; (d) the depressed economic conditions in the areas where the Partnerships' projects were located had materially impaired the value of the Units; (e) the Plan could not continue to carry the Units at face value; (f) the Units may not have been appropriate investments for the Plan's Fund B, and the quality and risks associated with the Units were not fully explained to the Plan's fiduciaries; (g) the participants in the Plan's Fund B should not bear the loss from these deteriorating investments; and (h) it was not in the best interest of the Plan and its participants and beneficiaries to keep the Units in the Plan. Therefore, on March 31, 1987, the Trustee, upon direction of the Investment Manager, transferred the Units to the Sponsor, which paid the Plan cash in the amount of $157,374.60, representing the combined face values of the Units ($65,000 + $83,160) plus quarterly distributions accrued but unpaid on the Units from July 1, 1986 through December 31, 1986 ($9,214.60). The amount of unpaid quarterly distributions accrued for the period January 1, 1987 through March 31, 1987 was excluded from the price paid by the Sponsor on March 31, as the Plan had not then accrued such distributions on its books. However, in March 1988 the Sponsor paid the Plan $4,607.30 by check, representing the aggregate amount of the unpaid accrued distributions on the Units for the period January 1, 1987 through March 31, 1987 (i.e.: $2,112.50 due from Partnership 1 plus $3,494.80 due from Partnership 2). According to the Trustee, the Plan did not pay any commissions or other expenses in regard to effecting the sale of the Units to the Sponsor, and the costs incurred by the Plan with respect to the Units from the time the Plan acquired them to the date of transfer to the Sponsor are so minimal as to be unascertainable.

7. Formal transfer of the ownership of the Units on the books of the Partnerships was effected as of March 31, 1988, after obtaining the required consent of the general partners thereof. Prior to that date, the Plan and the Sponsor agreed that even if the general partners would not consent to said formal transfer, the Plan and the Sponsor would, as between themselves, treat the Units as having been purchased by the Sponsor and would file all required tax returns on that basis. The applicants have sought counsel as to whether the sale of the Units on March 31, 1987 without the prior approval of the general partners of the Partnerships is a valid and legally binding sale as between the Plan and the Sponsor. They have obtained an opinion of counsel concluding that the sales on March 31, 1987 of the Units by the Plan to the Sponsor constitute legally binding and valid sales as between the Plan and the Sponsor.

8. Mr. Milton Slater, Vice President for Investor Relations of American Residential Properties, Inc., which represents the general partners of the Partnerships, has confirmed that as a result of the soft market conditions in Texas where both of the properties financed by the Partnerships are located, the fair market values of the Units did not exceed (and may have been considerably lower than) their face values as of March 31, 1987. The applicants represent that the difference, if any, between the fair market value of the Units on March 31, 1987 and the amounts paid by the Sponsor to the Plan on that date and in March of 1988 as the purchase price for the Units will not disqualify the Plan if such payments are subsequently determined to be employer contributions for purposes of the limitations imposed by the Code.

9. In summary, the applicants represent that the sale of the Units to the Sponsor by the Plan satisfies the exemption criteria set forth in section 408(a) of the Act because: (a) The Investment Manager and the Trustees determined that it would be in the best interests of the Plan and its participants and beneficiaries to dispose of the Units to avoid having the participants and beneficiaries bear the loss from these deteriorating investments because their value had been impaired and they were producing no income, had no market, and were not freely transferable; (b) the sale price paid by the Sponsor on March 31, 1987 was not less than the fair market value of the Units on that date; (d) the Sponsor represents that the Plan would not be disqualified if the difference between (i) the combined fair market values of the Units on March 31, 1987, and (ii) the amounts paid to the Plan by the Sponsor on March 31, 1987 and in March 1988, were treated as employer contributions for purposes of the limitations imposed by the Code; and (e) the Plan did not pay any commissions or other expenses in regard to effecting the sale of the Units to the Sponsor.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

McInerney & Dillon, Professional Corporation, Profit Sharing Plan and Trust (the Plan), Located in Oakland, California

[Application No. D-7487]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to a proposed loan by the Plan to McInerney & Dillon, P.C., the Plan sponsor, under the terms and conditions described in this notice of proposed exmeption, provided that such terms and conditions are not less favorable to the Plan than those obtainable by the Plan in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. McInerney & Dillon, P.C., the Plan sponsor (the Plan Sponsor), is a law firm in Oakland, California, consisting of seventeen attorneys.

The Plan had approximately $1,150,000 in assets as of December 31, 1987. As of February 2, 1988, the Plan had twenty-one participants. The Trustees of the Plan are William H. McInerney and Haradon M. Dillon.

2. Pursuant to Prohibited Transaction Exemption 86-80 (PTE 86-80) July 2, 1986, 51 FR 24247), the Plan lent $175,000

to the Plan Sponsor for a period of sixty months (the First Loan).

3. The trustees are requesting an exemption for a second loan (the Second Loan) by the Plan to the Plan Sponsor for an amount sufficient to repay the current outstanding principal of the First Loan and for an additional amount of $140,000 to provide leasehold improvements, furniture and fixtures for additional office space to be used by the Plan Sponsor. The total outstanding balance of the Second Loan would be less than 35% of the Plan's assets.

4. The proposed Second Loan will be repaid in equal monthly installments of interest and principal over a period of sixty (60) months, will accrue interest at a rate of one and one-half percent (1½%) over the prime rate set by the Bank of America on the date of the Loan and will be adjusted quarterly thereafter. The Loan will be collateralized by a promissory note and security agreement duly effected in accordance with California law. Financing statements will be filed in appropriate state and county offices as required by the Uniform Commercial Code as adopted in California. The Loan will be secured by a first security interest in the accounts receivable of the Plan Sponsor. The applicant represents that the accounts receivable will be maintained at no less than 200% of the outstanding balance of the Loan at all times and will not be otherwise encumbered. The accounts receivable are not conditioned upon future performance by the Plan Sponsor, but are due and payable upon receipt by the Plan Sponsor's clients. Finally, the applicant represents that the financial statements of the Plan Sponsor for the past two years illustrate the ability of the Plan Sponsor to generate the income with which to repay the Loan to the Plan.

5. George A. Malloch, Esq. (Mr. Malloch), of the San Francisco Law firm of Kaplan, Russin, Vecchi, Eytan & Collins, independent fiduciary for the Plan with respect to PTE 86–80, represents that the trustees and plan administrator of the Plan discharged their fiduciary responsibilities with respect to PTE 86–80 fully, correctly, and timely; that the First Loan and Loan payments have been property accounted for by the Plan; and that all Loan payments have been promptly paid when due.

Mr. Malloch also has agreed to serve as the independent fiduciary with respect to the proposed Second Loan. Mr. Malloch represents that he is qualified to serve in this capacity by virtue of his experience as an attorney with practice in business and tax law, and is aware of the duties, responsibilities and liabilities entailed in acting as independent fiduciary with respect to the Loan. Mr. Malloch further represents that he is not in any way related to the Plan Sponsor, the Plan or any of the principals thereof.

Mr. Malloch states that the proposed transaction is in the best interest of the Plan and its participants and beneficiaries since, in his opinion, the rate of return to the Plan would be a fair market return and would be one of the better performing assets in the Plan's portfolio. Mr. Malloch further states that the proposed Loan would be adequately secured by the accounts receivable of the Plan Sponsor.

Mr. Malloch represents that he reached this opinion after reviewing the Plan's most recent financial statements and the Plan's overall investment portfolio in terms of the Plan's liquidity requirements and the general diversification requirements of Plan assets.

In his capacity as independent fiduciary, Mr. Malloch will receive all Loan payments for the Plan, and will have the authority and responsibility of enforcing the terms of the Loan and accompanying security agreements, including making demand for timely payment, bringing suit or other timely process against the Plan Sponsor in the event of default, and monitoring the performance of the Loan, specifically including, but not limited to, ensuring that the value of the collateral securing the proposal Loan remains at no less than 200% of the outstanding balance of the Loan.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria under section 408(a) of the Act because: (a) The Loan will be approved, monitored, and enforced by an independent fiduciary; (b) the Loan will be secured by the value of the accounts receivable of the Plan Sponsor, which will at all times be no less than 200% of the outstanding balance of the Loan; (c) the Loan will be for no more than 25% of the Plan's assets; and (d) the Plan's independent fiduciary has determined that the Loan is prudent and in the best interest of the participants and beneficiaries of the Plan.

FOR FURTHER INFORMATION CONTACT: Joseph L. Roberts III of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Bethel Clinic Employees' Profit Sharing Plan and Trust (the Plan), Located in Wichita, Kansas

[Application No. D–7516]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 71–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale (the Sale) by the Plan of certain real property (the Property) to the Bethel Clinic Building Company, L.P., Kansas limited partnership (the Partnership) and a party in interest with respect to the Plan, provided that the consideration paid for the Property is not less than the greater of either the sum of $450,000 or the fair market value of the Property on the date of the Sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 33 participants and total assets consisting of cash, securities, and the Property valued at $1.555,340.95, as of December 31, 1987. The plan was created on December 21, 1968, and on January 1, 1985, was "frozen" as to funding contributions and participants. With respect to the Plan, the latest favorable determination letter was isued on September 9, 1987, by the Internal Revenue Service. The trustee for the Plan is BANK IV Wichita, N.A. (the Trustee), formerly designated as Fourth National Bank and Trust Company of Wichita.

2. During 1985, the Bethel Clinic, Inc. (Bethel), which had been the sponsoring employer of the Plan, was acquired as a wholly owned subsidiary by Wichita Clinic, P.A. (Wichita), a major health care enterprise with 500 employees and located principally in Wichita, Kansas. At the time of this acquisition, only the 13 medical practitioners of Bethel became employees of Wichita; all other employees of Bethel ramained employees of Bethel. However, all employees of Bethel, and the medical practitioners who transferred their employment to Wichita, became participants in the pension benefit plans of Wichita.

3. The Trustee proposes to enter into a transaction in which the Plan will sell the Property to the Partnership for a

cash amount which will be not less than the greater of either $450,000 or the fair market value of the Property on the date of the Sale. All expenses and costs incurred by the Plan in acquiring and holding the Property will have been completely recovered from the lease of the Property to Bethel pursuant to a prior exemption and from the Sale. The applicant represents that the Sale will not only provide an orderly liquidation and termination of the Plan, but will enable the Plan to avoid disqualification by the Internal Revenue Service pursuant to section 401(a)(26) of the Code, if the Plan is maintained after December 31, 1988. In addition, the applicant represents that the proposed transaction will avoid a forced sale of the Property or a disorderly distribution in kind of Plan assets to Plan participants in the form of unmarketable fractional interests in the Property.

4. The Property is a medical clinic and two single-family residences located on 1.31 acres at 201 Pine Street, 315 and 317 Southeast Second Street and 202, 208, and 212 Harrison Street in Newton, Kansas. The Property was purchased by the Plan for $407,100, and leased to Bethel, pursuant to an exemption under section 408(a) of the Act [*See* Prohibited Transaction Exemption 78–2, (PTE 78–2), 43 FR 7746, February 24, 1978]. The Trustee represents that all the requirements of PTE 78–2 have been complied with since the exemption was granted. The Partnership consists of limited partners, who are the 13 medical practitioners transferred from Bethel to Wichita employment and a general partner, which is Wichita Clinic Building Corporation (WCBC), a wholly owned subsidiary of Wichita. The Wichita building facilities in Wichita, Kansas are owned by WCBC.

5. The Trustee, a qualified, independent fiduciary with respect to the Plan, retained Mr. Roger P. Turner, MAI, a qualified, independent appraiser, with Roger Turner Company, Wichita, Kansas to appraise the Property. Mr. Turner determined that the Property had a fair market value of $450,000 as of January 15, 1988. This appraisal was based upon the continued use of the clinic in conjunction with operation of the Newton Health Care Bethel Hospital, located across the street from the Property. At the time of the Sale the Trustee will also select the independent appraiser to enable the Trustee to determine the consideration to be paid for the Property. The Trustee, as independent fiduciary of the Plan, has found that the Sale is appropriate and in the best interests of the Plan and its participants and beneficiaries.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria for an exemption under section 408(a) of the Act because (a) the Sale will be a one-time transaction for cash with no expenses incurred by the Plan; (b) the Plan will sell the Property for the greater of $450,000 or at its fair market value as determined by a qualified, independent appraiser; and (c) the Plan will be able to terminate and distribute, in a timely manner, benefits to its remaining participants.

FOR FURTHER INFORMATION CONTACT: Mr. C.E. Beaver of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Brentwood Orthopedics, Inc. Defined Benefit Pension Plan and Trust (the Plan), Located in Warrensville Heights, Ohio

[Application No. D–7533]

Proposed Exemption

The department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of certain Firearms (The Firearms) to Edward L. Andrews, M.D. (Dr. Andrews), a party in interest with respect to the Plan, provided that the price paid is the higher of either the Plan's original purchase price for the Firearms, plus the expenses incurred by the Plan in connection with the holding and maintenance of the Firearms, or the fair market value of the Firearms on the date of sale.

Summary of Facts and Representations

1. The Plans is a defined benefit plan which, as of August 31, 1987, had seven participants and total assets of $1,226,000. The trustees of the Plan are Dr. Andrews and Theresa R. Andrews, his Wife (Mrs. Andrews; together, the Trustees).

2. The Plan's sponsor is Brentwood Orthopedics, Inc. (the Employer), located at 4110 Warrensville Center Road, Warrensville Heights, Ohio. The Employer is a professional corporation organized and operating under the laws of the State of Ohio. The Employer has been engaged in the practice of medicine since August 27, 1970. The Employer adopted the Plan, effective August 31, 1976. Dr. Andrews is an officer director, and the controlling shareholder of the Employer.

3. The applicant represents that the Plan is significantly overfunded and will be terminated during 1988. Approximately 3% of the Plan's assets consists of the Firearms. The Firearms are 34 commemorative Firearms, which were specially manufactured to commemorate particular events and were produced in limited quantities. The applicant states that the Firearms are of investment quality and were purchased and held solely as an investment for the Plan.[2] The Firearms were purchased in lots of various size during the years 1977 to 1981. The Plan paid a total of $50,745 for the Firearms. The Firearms were all purcahsed from William R. Richman (Mr. Richman), FFL Dealer, Collector and Gun Appraiser, d/b/a Fort Defiance Colt Commemorative Firearms in Defiance, Ohio. Mr. Richman is not related to Dr. Andrews, personally, or to the Employer.

The Firearms have been held, since their acquisition, by the Trustees. Specifically, the Trustees state that the Firearms have been located in a safe that Dr. Andrews had installed in his home for the purpose of holding the Firearms and have not been displayed to other persons. All expenses associated with the holding of the Firearms have been charged to the Plan. However, the safe was not purchased with Plan assets, but by Dr. Andrews, individually, acting in his capacity as a Trustee of the Plan.

4. The Firearms were appraised on December 31, 1987 by Mr. Richman, an independent, qualified appraiser, as having a wholesale market value of $37,675. By letter dated May 2, 1988, Mr. Richman states that the current retail market value of the Firearms would be about 20–25% more than the stated wholesale market value. Thus, if the Firearms were sold with a retail markup of 25%, the fair market value of the Firearms would be approximately $47,093.75.

5. The applicant states that since the Plan will be terminating and distributions will be made to the participants, it is necessary to liquidate the Plan's assets. The applicant states further that a sale of the Firearms to an independent party would involve a broker dealer, who would charge approximately 10% of the sales price as a commission for his services. In addition, the Firearms may have to be

[2]The Department is expressing no opinion as to whether the acquisition of the Firearms by the Plan violated any provision of Part 4 of Title I of the Act.

sold singly or in smaller lots, which could reduce the total amount the Plan would receive. Therefore, Dr. Andrews proposes to purchase the Firearms directly from the Plan for cash at the higher of either the Plan's original purchase price for the Firearms, plus the expenses incurred by the Plan in connection with the holding and maintenance of the Firearms, or the fair market value of the Firearms as of the date of the transaction. Mr. Richman states that he will update his appraisal for the Firearms for purposes of the proposed transaction. The Plan would not pay any brokerage commissions or other expenses with respect to the sale.

6. The Trustees believe that the proposed transaction would be in the best interest of the Plan and its participants and beneficiaries. By selling the Firearms to Dr. Andrews, the Plan will be able to eliminate the problems of finding multiple buyers and paying brokerage commissions. In addition, the Plan will be able to obtain a higher selling price for all of the Firearms and avoid any delay in the distribution of the Plan's assets.

7. In summary, the applicant represents that the proposed transaction will meet the statutory requirements of section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the Plan will receive the greater of either the fair market value of the Firearms as determined by an independent, qualified appraiser, or the original purchase price paid by the Plan for the Firearms, plus the expenses incurred by the Plan in connection with the holding and maintenance of the Firearms; (c) the Plan will not be required to pay any brokerage commissions or other expenses with respect to the sale; and (d) the Trustees have determined that the sale of the Firearms is in the best interest of the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Charles D. Pemberton Self-Employed Retirement Plan (the Plan), Located in Lubbock, Texas

[Application No. D-7541]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loan by the Plan of $45,000 (the Loan) to Charles D. Pemberton (Mr. Pemberton), the owner-employee and participant in the Plan and a disqualified person with respect to the Plan, provided that the terms and conditions of the proposed Loan be no less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated third party at the time of the making of the proposed Loan.[3]

Summary of Facts and Representations

1. The Plan is a profit-sharing plan the sole participants in which are Mr. Pemberton and his wife. As of March 11, 1988, the fair market value of the Plan's assets was $281,365.49.

2. The Plan proposed to lend to Mr. Pemberton $45,000 to be used as operating funds by Mr. Pemberton in his capacity as distributor and sales representative for Lazy Boy furniture. The Loan would be secured by 3,588 shares of Lazy Boy stock. The value of these shares, as traded on the New York Stock Exchange on March 15, 1988, was $57,856.50. The Loan will be secured additionally by two undeveloped parcels of real estate located in the Alto Village, in Lincoln County, New Mexico. On January 29, 1988, Rod Adamson, owner of Adamson Appraisal Company, Ltd. in Ruidoso, New Mexico, stated that the fair market values of the two parcels were $14,000 and $17,000, respectively. Accordingly, the applicant offers $88,856.50 in security for the proposed Loan. The security interest in the collateral will be recorded with the Secretaries of State of Texas and New Mexico using Form CCC-1. The applicant represents that if the value of the collateral should decline, additional collateral will be made available to keep the collateral at no less than 175% of the outstanding principal balance of the Loan at all times.

3. The Loan will be at a rate 2% above the prime rate of First National Bank at Lubbock as of the date of the Loan for a five year period with quarterly payments of principal and interest on the unpaid balance. The interest rate will be adjustable annually on the anniversary date of the Loan.

4. On March 14, 1988, Jimmie R. Holder, Senior Vice President of Lubbock National Bank of Lubbock, Texas, stated that his bank would make a comparable loan to the applicant on the same terms and conditions.

5. In summary, the applicant represents that the proposed transaction will satisfy the provisions of section 4975(c)(2) of the Code because: (a) The Loan will be adequately secured at all times; (b) No more than 25% of the Plan's assets will be invested in the Loan; and (c) Mr. Pemberton, who is the Plan trustee and sole participant (aside from his wife) in the Plan, desires that the transaction be consummated.

Notice to Interested Persons: Because Mr. Pemberton and his wife are the only participants in the Plan, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of proposed exemption.

FOR FURTHER INFORMATION CONTACT: Joseph L. Roberts III of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Colorado Imaging Associates, P.C. Profit Sharing Plan (the Plan), Located in Littleton, Colorado

[Application No. D-7549]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406 (a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale to Neal Goodman, M.D. (Dr. Goodman), Paul K. Danner, M.D. (Dr. Danner), David A. Raetz, M.D. (Dr. Raetz), and Kenneth B. Reynard, M.D. (Dr. Reynard), of certain diamonds (the Diamonds) from their individually directed accounts in the Plan (the Accounts), provided that the sale price be no less than the retail fair market value of the Diamonds on the date of sale as established by an independent qualified appraiser.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with individually directed separate accounts, sponsored by Colorado Imaging Associates, P.C. (the Plan Sponsor), a Colorado professional corporation engaged in the practice of

[3] The applicant represents that Charles D. Pemberton, a self-employed owner-employee, and his wife are the sole participants under the Plan. Hence, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

medicine, specializing in radiology. Dr. Goodman is the President, Drs. Danner and Reynard are Vice-Presidents, and Dr. Raetz is the Secretary-Treasurer of the Plan Sponsor. Drs. Goodman, Danner, Raetz and Reynard are each 25% shareholders of the Plan Sponsor, and are also Trustees of the Plan. Drs. Danner and Raetz are also administrators of the Plan. As of February 15, 1988, the Plan had eleven participants. As of June 30, 1987, the Plan had net assets of $2,513,326.

2. The diamonds were purchased for $124,140 from unrelated third parties in June and July of 1977 for general investment purposes. The Diamonds have not been used by the Plan or by any party in interest and have held in a safe-deposit box in the name of the Trustees since their acquisition by the Plan. Drs. Goodman, Danner, Raetz and Reynard have determined that it is in their best interest and that of their Accounts to sell the Diamonds to themselves. In view of the weak gemstone market and the high expenses in selling the Diamonds to unrelated third parties, they have determined that the sale of the Diamonds to themselves would provide the greatest return to the Accounts at the lowest expense.

3. On January 15, 1988, Edward H. Paul, of Cherry Creek Gems, Inc., an independent qualified appraiser of gems in Denver, Colorado, based on an examination of the original grading certificates of the Diamonds issued by the Gemological Institute of America, and on examination of the Diamonds themselves, estimated the fair retail market value of the Diamonds to be $236,209. Specifically, he set the fair market value of the four diamonds in Dr. Goodman's account at $107,632; of the two diamonds in Dr. Danner's account at $78,021; of the two diamonds in Dr. Raetz's account at $36,659; and the one diamond in Dr. Reynard's account at $13,897.

4. Accordingly, the Plan proposes to sell the diamonds in the individually directed separate accounts of Drs. Goodman, Danner, Raetz and Reynard (the Doctors) in the Plan to the Doctors for cash for the fair market retail values of the Diamonds as established by an independent qualified appraiser as of the date of sale, with no costs or expenses to be paid by the Plan or the Accounts.

5. In sumary, the applicant represents that the proposed transactions will satisfy the criteria of section 408(a) of the Act because: (a) The Diamonds will be sold by the Accounts to the Doctors for their fair market retail values as determined by a qualified and independent appraiser as of the date of sale; (b) the sale represents a one-time transaction for cash which can be easily verified; (c) neither the Plan nor the Accounts will incur any expense with respect to the sale; and (d) the Doctors, who are the only participants whose individual accounts are affected by this proposed exemption, have determined that the proposed transaction would be in the interest of their individual accounts in the Plan, and desire that the transaction be consummated.

Interest to Interested Persons: Because Drs. Goodman, Danner, Raetz and Reynard are the only persons in the Plan to be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a public hearing are due 30 days from the date of publication of this notice of proposed exemption in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Joseph L. Robers III of the Department, telepone (202) 523-8881. (This is not a toll-free number.)

D.W. Brown, M.D., Inc., Defined Benefit Plan and Trust (the Plan), Located in Sacramento, California

[Application No. D-7579]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of a certain parcel of unimproved real property and related water rights (the Property) to Donald W. Brown, M.D. (Dr. Brown) and Margaret R. Brown, his wife (Mrs. Brown; together, the Browns) both of whom are parties in interest with respect to the Plan, provided that the sales price for the Property is not less than the fair market value of the Property on the date of sale.

Summary of Facts and Representations

1. The Plan is a defined benefit plan which, as of June 30, 1987, had two participants and total assets of $387,577.50. The Browns are the trustees of the Plan (together, the Trustees).

2. The Plan is sponsored by D.W. Brown, Inc. (the Employer), a California medical corporation specializing in nuclear medicine. The Employer is location at 3911 Dunster Way, Sacramento, California. Dr. Brown is the president and 100% shareholder of the Employer. The Browns are the only participants in the Plan.[4]

3. The Property consists of approximately 83 acres of unimproved flood-irrigated farmland, together with 9¼ shares of related water rights in the Handy Ditch Company. The Property is located at 1064 North County Road 17 in Larimer County Colorado. The Property was purchased by the Plan on February 14, 1986 from P. Richardson, J. Wright and E. Price (the Sellers), all of whom are unrelated parties, for $165,680. The Plan paid $110,120 in cash and gave a note (the Note) to the Sellers for $55,560 to cover the balance of the purchase price. The Note bears interest at a rate of 9% per annum, beginning March 14, 1986, with monthly payments $447.05. A final payment on the Note in the amount of $50,133.89 will be due on January 1, 1996. As of March 14, 1988, the principal balance on the Note was $54,728.87. The applicant states that as of February 28, 1988, the Plan had received $12,693.34 in income on the Property and had incurred total expenses, including interst on the Note, of $19,377.32.

The Property is adjacent to another parcel of real property owned by the Browns, in their individual capacities (the Adjacent Property). However, the applicant states that the Property has not been leased to, or otherwise used by, the Browns or any other party in interest with respect to the Plan.

4. The applicant represents that the Plan acquired the Property as an investment. However, there has been no net farm income from the Property for the Plan because the prices for farm commodities which are produced by the Property have been very low during the past few years. The applicant states that prices for farm properties in Larimer County, Colorado, are being adversely impacted by a depressed farm economy. In addition, residential and commercial development in the nearby town of Berthoud, Colorado, has suffered from a downturn in the local economy. Therefore, the applicant states that it is unlikely that the Property will appreciate in value or that the Plan will realize any substantial income from the Property in the near future.

5. The Property was appraised on March 30, 1988 by Lawrence I. Melton, Jr. and Barry J. Floyd, S.R.A., of the Northern Colorado Appraisal Company

[4] Because the Browns are the only participants in the Plan and the Employer is wholly-owned by Dr. Brown, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

in Loveland, Colorado (the Appraisal), as having a fair market value of $150,000. The appraisal includes a valuation of approximately $45,000 for the related water rights on the Property. The Appraisal states that the Property was appraised as if it were free and clear of mortgage indebtedness, assessments, and liens of any kind other than taxes. The Appraisal also states that the valuation of the Property has taken into consideration the possible special value of the Property to the Browns as a result of their ownership of the Adjacent Property. However, the Appraisal concludes that there is no "special value" of the Property to the Browns as a result of the ownership of the Adjacent Property.

6. The Browns propose to purchase the Property from the Plan for cash. The purchase price would be the greater of either the fair market value of the Property or the sum of the total acquisition cost and total net carrying costs to the Plan for the Property, as of the date of the transaction. The Appraisal will be updated as of the date of sale. As of February 28, 1988, the approximate sum of the total acquisition cost and total net carrying costs incurred by the Plan was $172,363.98. The Browns state that they will assume all obligations and liabilities of the Plan under the Note. Therefore, the amount owed on the Note will be subtracted from the total price to be paid by the Browns for the Property, and cash equal to the difference between the amount owed on the Note and the total proposed purchase price will be paid to the Plan.

The applicant states that the proposed purchase price guarantees that the Plan will receive a net cash amount for the Property which is equal to the total cash outlays of the Plan (i.e. the original purchase price plus expenses, including interest paid on the Note) in connection with the Property, less any income received by the Plan on the Property as of the date of sale. The Trustees represent that the proposed transaction would be in the best interest of the Plan because the transaction will make the Plan "whole" with respect to the total cost of the Property to the Plan as an investment. The applicant states that the proposed purchase price is greatert than any price that currently could be obtained from an unrelated party. In addition, no brokerage commissions or other expenses will be incurred by the Plan in connection with the sale. Finally, the proposed transaction will allow the Plan to reinvest the sale proceeds in investments which yield substantially higher returns for the Plan than the Property.

7. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the Plan will receive an amount which is the greater of either the fair market value of the Property, as established by the Appraisal, or the total cash outlays of the Plan in connection with the Property, less any income received by the Plan on the Property as of the date of sale; (c) the Plan will not pay any commissions or other expenses with respect to the sale; and (d) the Trustees, who are the only participants in the Plan, have determined that the proposed sale is in the best interest of the Plan.

Notice to Interested Persons: Because the Browns are the only participants in the Plan, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a public hearing are due 30 days from the date of publication of this proposed exemption in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 523-8883. (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) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 7th day of June, 1988.

Robert J. Doyle,

Acting Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88-13147 Filed 6-9-88; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 88-51; Exemption Application No. D-6642 et al.]

Grant of Individual Exemptions; Orchard, H:1T2-McCliment, Inc., et al

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemption 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 notice 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.

Orchard, Hiltz & McCliment, Inc. Profit Sharing Plan (the Plan) Located in Southfield, Michigan

[Prohibited Transaction Exemption 88–51; Exemption Application No. D–6642]

Exemption

The restrictions of section 406(a), (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The prospective transfer of title (the Sale) of certain real property owned by the Plan to Orchard, Hiltz & McCliment, Inc. (the Employer) pursuant to a land contract (the Contract) amended by the parties on July 18, 1986; and (2) the past extension of credit by the Plan to the Employer under the Contract in connection with the Sale; provided that the terms and conditions of both transactions are as favorable to the Plan as those obtainable in an arm's-length transaction between unrelated parties.

EFFECTIVE DATE: The effective date of Transaction 1 will be the date of the final grant of this proposed exemption. The effective date of Transaction 2 will be July 18, 1986.

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 (the Notice) published on March 18, 1988 at 53 FR 9002.

Written Comments

The Department received one written comment and no requests for a hearing. The commenter, representing the Employer, requested that the Notice be corrected to reflect that the date the initial Contract was entered into was June 27, 1984 and not July 27, 1984 as stated in the Notice. The Department concurs in this change. The commenter also requested clarification regarding the language contained in the Notice concerning payment of excise taxes. The Deapartment concurs that the language should read as follows:

> The Employer has agreed to pay all applicable excise taxes concerning prior prohibited transactions which occurred through July 18, 1986. Such payment shall be made within 60 days of the date the exemption is granted.

After consideration of the record, the Department has determined to grant the proposed exemption as modified herein.

FOR FURTHER INFORMATION CONTACT: Mrs. Betsy Scott of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Frank E. Irish, Inc. Profit Sharing Plan (the Plan)

[Prohibited Transaction Exemption 88–52; Located in Indianapolis, IN; Exemption Application No. D–7151]

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 proposed cash sale, for $141,000, of an undivided one-half interest (the Interest) in certain improved real property by the individually-directed account (the Account) in the Plan of Mr. John T. Irish (Mr. Irish) to Mr. Irish, a party in interest with respect to the Plan, provided the amount paid for the Interest is not less than fair market value at the time the transaction is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 22, 1988 at 53 FR 13350.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Medical Center of Delaware, Inc. Retirement Plan (the Plan) Located in Wilmington, DE

[Prohibited Transaction Exemption 88–53; Exemption Application No. D–7244]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective May 22, 1985, to the past sale and purchase of publicly-traded securities, on May 22, 1985, between the Plan and the endowment fund of the Medical Center of Delaware, Inc., provided that the Plan received not less than the fair market value of the securities it sold and paid not more than the fair market value for the securities it purchased.

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 March 18, 1988 at 53 FR 9009.

For Further Information Contact: David Lurie of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Modern Display Service, Inc. Employees Profit Sharing Plan (the Plan) Located in Salt Lake City, Utah

[Prohibited Transaction Exemption 88–54; Exemption Application No. D–7248]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) the sale by the Plan of a parcel of improved real property located in Salt Lake City, Utah for the greater of $340,000 or the fair market value on the date of the sale to THA Investments (THA), a limited partnership in which the trustee of the Plan owns limited and general partnership interests; and (2) the assignment of a third party lease by the Plan to THA.

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 6, 1988 at 53 FR 11355.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 523–8883. (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 7th day of June, 1988.

Robert J. Doyle,

Acting Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88-13146 Filed 6-9-88; 8:45 am]

BILLING CODE 4510-29-M

LIBRARY OF CONGRESS

Copyright Office

Mandatory Deposit; New Procedure for Requesting Prompt Exercise of Right To Demand Under the Motion Picture Agreement

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of change in procedure.

SUMMARY: This notice informs the public of a change in procedure regarding the processing of requests for prompt exercise of the Librarian's contractual right to demand return of motion pictures pursuant to paragraph 5(a) of the Motion Picture Agreement. Under paragraph 5(a), when a depositor submits a written request asking the Library promptly to exercise its right to demand, the Library has 90 days to respond. Under the new procedures, written requests under paragraph 5(a) must be addressed directly to the Deposits and Acquisitions Division of the Copyright Office.

EFFECTIVE DATE: June 10, 1988.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559. Telephone: (202) 287-8380.

SUPPLEMENTARY INFORMATION: Under the Copyright Act of 1976, Title 17 U.S.C. 407, the owner of copyright, or of the exclusive right of publication, in a work published with notice of copyright in the United States is required to deposit two copies of the work in the Copyright Office for the use or disposition of the Library of Congress. Section 408 also requires deposit of two copies of published works in connection with applications for copyright registration. By establishing deposit requirements, Congress intended to provide a useful legal record of the copyrighted work that meets both the practical needs of depositors and the acquisitions needs and wants of the Library. In keeping with these policies, the statute authorizes the Copyright Office of issue regulations liberalizing the deposit requirements. With respect to motion pictures, the regulations permit the deposit of only one copy.

In addition to reducing the number of copies to be deposited, the Library and the Copyright Office in cooperation with motion picture industry representatives developed a contract known as the Motion Picture Agreement to allow permanent deposit of motion pictures on a delayed basis when the commercial marketing of prints has somewhat abated. The Agreement, available since 1946 except for a short period during initial implementation of the 1976 Copyright Act, provides that a motion picture may be returned to the depositor in exchange for a contractual promise to deposit, upon demand, a best edition copy of archival quality.

The Agreement places time restrictions upon the Library's discretion to issue a demand for an archival copy. Under paragraph 5 of the Agreement, discretion to issue a demand is limited to one of two circumstances. Under paragraph 5(a), when a depositor, within two years from deposit, submits a written request asking the Library promptly to exercise its right to issue a demand, the Library has 90 days to decide whether to issue a demand. If no paragraph 5(a) request is made by the depositor, paragraph 5(b) authorizes a two-year period from the date of the deposit for the Library to decide whether to issue a demand.

In order to invoke the procedure requiring prompt exercise of the Library's right to demand, many depositors have included the request with the deposit materials submitted to the Examining Division of the Copyright Office in connection with registration of the claim to copyright. Since the decision to issue a demand is made by another operating division—the Deposits and Acquisitions Divisions of the Copyright Office—the failure to provide this Division with direct notice has created problems in meeting the 90-day deadline.

In order successfully to carry out the responsibilities of paragraph 5(a) of the Motion Picture Agreement, it is necessary that the Deposit and Acquisitions Division receive directly the request for prompt exercise of demand. Therefore, the Library is announcing new procedures.

Beginning immediately, all written requests under paragraph 5(a) of the Motion Picture Agreement must be sent directly to the Deposits and Acquisitions Division, Attention: Motion Picture Administrative Assistant, Copyright Office, Library of Congress, Washington, DC 20559. The content of the request shall include the title of the work(s) covered by the request, printed descriptive material about each work, and a reference to paragraph 5(a) of the Motion Picture Agreement. If the request is submitted simultaneously with motion picture registration materials, a carbon copy of the request must be included with the required registration materials.

Dated: May 9, 1988.

Ralph Oman,

Register of Copyrights.

Approved by.

James H. Billington,

The Librarian of Congress.

[FR Doc. 88-13031 Filed 6-9-88; 8:45 am]

BILLING CODE 1410-07-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[88-59]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Review Team on Aeronautics Technology Competitiveness.

DATE AND TIME: June 28, 1988, 8:30 a.m. to 4:0 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 625, Federal Office Building 10B, Washington, DC 20546.

FURTHER INFORMATION CONTACT: Mr. John S. Burks, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2807.

SUPPLEMENTARY INFORMATION: The NAC Aeronautics Advisory Committee (AAC) was established to provide overall guidance to the Office of Aeronautics and Space Technology (OAST) on aeronautics research and technology activities. Special ad hoc review teams are formed to address specific topics. The Ad Hoc Review Team on Aeronautics Technology Competitiveness, chaired by Mr. Louis F. Harrington, is comprised of ten members. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons including the team members and other participants). It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open.

Agenda:

June 28, 1988.

8:30 a.m.—Review of Action Groups Assessments.

10:30 a.m.—Prepare Final Report Outline and Conclusions.

4 p.m.—Summary and Task Assignments

4:30 p.m.—Adjourn.

June 6, 1988.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 88-13032 Filed 6-9-88; 8:45 am]

BILLING CODE 7510-01-M

[Notice (88-60)]

NASA Advisory Council (NAC), Space Station Science and Applications Advisory Subcommittee (SSSAAS); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Station Science and Applications Advisory Subcommittee.

DATE AND TIME: June 20, 1988, 8:30 a.m. to 5:30 p.m., June 21, 1988, 8:30 a.m. to 11 p.m., June 22, 1988, 8:30 a.m. to 11 p.m., June 23, 1988, 8:30 a.m. to 11 p.m., and June 24, 1988, 8:30 a.m. to 1 p.m.

ADDRESS: Hyannis Regency Inn, Route 132, Hyannis, MA 02601.

FOR FURTHER INFORMATION CONTACT: Mr. A. V. Diaz, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1430).

SUPPLEMENTARY INFORMATION: The Space Station Science and Applications Advisory Subcommittee reports to the Space and Earth Science Advisory Committee (SESAC), Space Applications Advisory Committee (SAAC) and Life Sciences Advisory Committee (LSAC) and consults with and advises the NASA Office of Space Science and Applications (OSSA) on the new capabilities to be made available by the Space Station program and how these may be most effectively utilized. It also advises the NASA Office of Space Station (OSS) on how the Space Station program may most effectively support potential science and applications users. The Subcommittee will meet to discuss the OSSA strategic planning, Space Station Utilization planning and the Subcommittee's future activities. The group is chaired by Dr. Franklin Lemkey and is composed of 15 members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 people including members of the Subcommittee). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open.

Agenda

Monday, June 20.

8:30 a.m.—Orientation to Committee. Procedures and Responsibility.

9 a.m.—Office of Space Science and Applications (OSSA) Strategic Plan.

9:30 a.m.—Space Station Program Status.

10:30 a.m.—OSSA Integrated Requirements/Reference Payloads for Phase I Station.

11 a.m.—Information System/ Telescience Testbedding.

11:30 a.m.—Utilization Studies.

12 Noon—NASA Office of Commercial Programs.

12:30 p.m.—NASA Office of Aeronautics and Space Technology.

2 p.m.—Space Science and Science in Space Tutorials.

5:30 p.m.—Adjourn.

Tuesday, June 21.

8:30 a.m.—SSSAAS Meeting Objectives/Guidelines and International Forum for the Scientific Uses of the Space Station (IFSUSS).

9:30 a.m.—Memoranda of Understanding.

10 a.m.—Status of Space Station Science Operations Management Concept Study (SSSOMC).

11 a.m.—Space Station Utilization Plan.

12 Noon—Results of OSSA Testbed Program.

7:30 p.m.—Primary Splinter Groups Discuss Pressurized Volume and Attached Payloads.

11 p.m.—Adjourn.

Wednesday, June 22.

8:30 a.m.—Information Systems Issues and Concerns.

10:15 a.m.—Operations and Management Issues and Concerns.

7:30 p.m.—Discipline Splinter Groups to discuss Operations and Management Issues and Concerns.

11 p.m.—Adjourn.

Thursday, June 23.

8:30 a.m.—Current Space Station configuration and Its Evolution from the Critical Evaluation Task Force (CETF), Evolution of Assembly Sequence, Payload Accommodations, Trial Payload Manifest.

11:15 a.m.—International Accommodations.

7:30 p.m.—Discipline Splinter Groups incorporate space station accommodation information and consolidate splinter group findings and recommendations.

11 p.m.—Adjourn.

Friday, June 24.

8:30 a.m.—Subgroup Reports.
10:45 a.m.—Conclusions and Recommendations to OSSA/SESAC.
1 p.m.—Adjourn.

Ann Bradley,
Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 88-13033 Filed 6-9-88; 8:45 am]
BILLING CODE 7510-01-M

[Notice (88-58)]

NASA Wage Committee; Renewal

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of renewal.

SUMMARY: Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), and after consultation with the Committee Management Secretariat, General Services Administration, NASA has determined that the Renewal of the NASA Wage Committee is in the public interest in connection with the performance of duties imposed upon NASA by law.

FOR FURTHER INFORMATION CONTACT: Deborah C. Green, National Aeronautics and Space Administration, Code NPM, Washington, DC 20546 (202/453-2622).

SUPPLEMENTARY INFORMATION: The function of this Committee is to provide recommendations to NASA relating to a survey of wages and the establishment of wage schedules for trades and labor employees in the Cleveland, Ohio, Wage area. NASA has been designated as the "lead agency" for the area under Federal Personnel Manual Supplement 532-1.

June 6, 1988.

Ann Bradley,
Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 88-13034 Filed 6-9-88; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Research Experiences for Undergraduates Program; Availability of Grants

I. Program Description

A. Purpose and Scope

One of the National Science Foundation's principal goals is to assure an adequate supply of high quality mathematicians, scientists and engineers for the future. This requires continuing efforts to attract talented students into research careers in these fields, and to help ensure that they receive the best education possible. The undergraduate years are critical in the educational sequence, as career-choice points and as the first real opportunities for in-depth study.

There is wide-spread agreement [1] that active research experience is one of the most effective techniques for training undergraduates for careers in mathematics, science and engineering, and that too few such experiences are now available. NSF has established the *Research Experiences for Undergraduates Program* (REU) to help meet this need.

REU plans to provide opportunities annually to several thousand undergraduate students to participate in active mathematics, science and engineering research experiences. REU projects will involve students in meaningful ways in either ongoing research programs or research projects specially designed for this purpose.

NSF is particularly interested in increasing the participation in research of women, minority [2] and disabled students. Projects involving students who are members of these groups are particularly solicited.

Although the categories of awards that are described in this announcement are expected to include the majority of projects supported through the REU program, additional mechanisms for providing undergraduate research experiences will be considered by the NSF.

Proposals are invited for support of projects that typically will fit into two major categories: (1) *REU Sites* and (2) *REU Supplements.*

* *Sites* grants will be based on independent proposals to initiate and conduct undergraduate research participation projects for a number of students appropriate to the discipline and the setting. Most REU Sites projects are expected to be within the scope of a single discipline and/or single academic department. Interdisciplinary proposals are also acceptable, but multiple discipline or multiple department proposals without a common project focus or orientation are discouraged.

* *Supplements* to ongoing NSF research grants to provide research experiences for a small number of undergraduate students are also encouraged.

Projects may be carried out during the summer months, during the academic year, or both. The Foundation will consider requests for support of one, two or three years duration. Proposals will not be accepted for the REU program.

B. Eligibility Criteria and Limitations

1. Eligible Institutions

All U.S. institutions conducting research in the disciplines normally supported by NSF are eligible to apply. Thus, proposals will be accepted from colleges and universities, from such nonacademic research institutions as government or industrial laboratories, or from combinations thereof. There is no restriction on the number of proposals that may be submitted per institution.

2. Eligible Fields

The Foundation considers proposals for REU support in most of the fields of science and engineering. NSF normally will not support biomedical research with disease-related goals, including work on the etiology, diagnosis, or treatment of physical or mental disease, abnormality, or malfunction in human beings or animals. Animal models of such conditions, or the development or testing of drugs or other procedures for their treatment also generally are not eligible for support. NSF does not normally support technical assistance, pilot plant efforts, research requiring security classification, the development of products for commercial marketing, or market research for a particular product or invention.

3. Eligible Individuals

Principal Investigator. A single individual should be designated as Principal Investigator. This individual will be responsible for overseeing all aspects of the award. However, it is expected that additional investigators will be involved in many of these projects, particularly in projects involving development and operation of REU Sites.

Student Participants. Undergraduate student participants must be citizens or permanent residents of the United States and its possessions. An undergraduate student is a student who is enrolled in a degree program (part-time or full-time) leading to a bachelor's degree. High school graduates who have not yet enrolled and students who have received their bachelor's degree and are

[1] *Undergraduate Science, Mathematics and Engineering Education*, Report of the National Science Board Task Committee on Undergraduate Science and Engineering Education, National Science Foundation, March 1986; *National Priorities for Undergraduate Science and Engineering Education*, National Higher Education Associations Task Force, American Council on Education, 1985.

[2] For the purpose of this announcement, minorities are defined as members of those racial and ethnic groups underrepresented in science and engineering: American Indian, Blacks, Hispanics, Native Alaskan or Native Pacific Islander.

no longer enrolled as undergraduates are not eligible.

4. Eligible Activities and Costs

REU award costs, expected to average $4,000 per student for Sites and somewhat less for Supplements, may include stipends for students, salaries of involved faculty, relevant student housing costs, indirect costs, and a modest allowance for supplies. Student stipends for full time summer activity should be at least $2,000, for either type of award, with pro rata equivalent stipends for part-time academic year participation.

C. Deadlines

Proposals for the support of REU Sites are due no later than October 10 annually. Award notification will be made to the extent possible by late January.

Proposals for REU Supplements will be accepted at any time, and require 2–3 month's processing time. Supplement requests should be submitted as early in the fiscal year as possible.

II. Preparation and Submission of Proposals

A REU Sites

Funds for the establishment of REU Sites may be requested from any of NSF's research directorates: Biological, Behavioral and Social Sciences; Computer and Information Science and Engineering; Engineering; Geosciences; and Mathematical and Physical Sciences.

Proposals should be prepared following the guidelines contained in the NSF document "Grants for Research and Education in Science and Engineering" (NSF 83–57, rev. 11/87) and the following instructions. Fifteen copies of the proposal should be submitted. Each copy of the proposal should contain:

—The Cover Sheet (found in Appendix II of the REU program announcement). Clearly indicate the NSF research directorate and/or division to which the proposal is directed on the top left box of the form. A list of these can be found in the REU Program Announcement.

—The Budget form 1030 (found in Appendix III of the REU Program Announcement).

—The Project Summary Form (found in Appendix IV of the REU Program Announcement).

—The Current and Pending Support Form (found in Appendix V of the REU Program Announcement.

—Statement of prior support. If either the Principal Investigator or the Co-principal Investigator received prior support from NSF's REU Program, the proposal must include a section entitled *"Results from prior NSF Support"*. This section must describe the earlier REU project(s) and outcome(s) in sufficient detail to permit reviewers to reach an informed conclusion regarding the value of the results achieved. The following information must be included in this summary statement:

- The NSF award number, amount, and period of support;
- Title of the project;
- A summary of the results of the completed work. (To facilitate review, this summary must not exceed-for REU—three double-spaced pages); and
- A list of publications and/or formal presentations acknowledging the NSF award (copies of such papers are not to be submitted with the proposal).

Each proposal should reflect the unique combination of the proposing institution's interests and capabilities. Cooperative regional arrangements among institutions will be considered so that a project might increase the quality or availability of undergraduate research experiences.

REU Sites projects must have a well defined common focus. This is usually achieved within the scope of a single discipline or academic department, although an interdisciplinary proposal with cohesively integrated projects is acceptable. In general, multiple-discipline or multiple-department proposals are not encouraged.

The proposal should discuss the features of the proposed project in sufficient detail that it can be evaluated in accordance with the goals of the REU program and the criteria articulated in section III. The narrative description of the program should not exceed 15 double-spaced pages in length. The narrative should include a description of:

Nature of Student Activities

NSF believes undergraduate research experiences have their greatest impact in situations that lead the participants from a relatively dependent status to an independent one as great as their competence warrants. In this context, proposals must present plans that will ensure the regular development of student-faculty interaction and student-student communication. Proposals should address the philosophy of the approach to undergraduate research training being taken, and should provide detailed descriptions of examples of projects in which students will become involved.

The Research Environment

The facilities and equipment available to support these undergraduate research experiences should be summarized. A tabular summary or similar indication of graduates continuing their education at the graduate level may be incorporated here.

Student Participants

Student recruitment and selection processes and criteria should be clearly described. A major goal of the program is to involve students in research who might not otherwise have the opportunity, particularly those from institutions where research programs are limited. This especially includes women, minority, and disabled students. For this reason, projects whose student participants include significant fractions outside the host institution, and that present convincing plans for involving underrepresented student groups will receive special consideration in the award selection process.

The number of students per project should be appropriate to the institutional setting and to the manner in which research is conducted in the discipline. However, developing collegial relationships and interactions is an important part of the project opportunity. Therefore the Foundation expects that the norm for REU Sites will be about 8 students, and proposals involving fewer than 4–6 students are discouraged.

The following items should also be included in the proposal (these items do not count as part of the 15 page narrative limit):

Budget

The proposal should include a detailed project budget and budget justification, as described in NSF 83–57, rev. 11/87. Use the NSF Form 1030 in Appendix III of the REU Program Announcement. As a guide to budget development, student stipends for summer projects are expected to be at least $2,000 with academic year stipends comparable on a pro rata basis. All student costs should be entered at line F. of Form 1030. Total costs are expected to average around $4,000 per student. The amount of total indirect costs allowed for REU (enter at line I of form 1030) is limited to 25% of student stipends. Institutional commitment to the project should be clearly described and may include such items as faculty salaries, student housing, travel, tuition, reduced indirect costs or lab use.

An REU Site involving 8 students (where travel is anticipated) might have the following budget distribution:

student stipends—$16,000; student travel—$2,400; student subsistence—$5,600; materials and supplies—$800; indirect costs (at 25% of student stipends)—$4,000; for a total of $28,800. This distribution is meant as an example only. Budgeted amounts may be more or less than shown. Institutions may choose to absorb some of these expenses as their commitment to the REU Site. Various NSF Directorates may permit a modest allowance for other expenses (such as faculty support) or even exclude some of those listed in the example. It is advisable to check with the appropriate Directorate/Division when questions of budget are concerned (see Program Announcement).

Biographical Sketches and Individual Support

A biographical sketch (not to exceed 1 page) for each of the key personnel and list of recent publications (last five years), *involving and identifying undergraduate authors*, should be included. An asterisk should be used to identify undergraduate students who served as co-authors. A table must be provided which summarizes each individual's current and pending research support from all sources.

Note: The Principal Investigator must have submitted NSF form 98A (Final Project Report) for all completed NSF funded projects.

Proposals must be received in the Foundation by 5:00 p.m. on October 10 annually to insure inclusion in the competitive review process established for this program.

Materials required:

15 legible copies of the complete proposal;

One copy of NSF form 1225 (found in Appendix I of the REU Program Announcement) attached to the signature copy of the proposal only;

Three sets of *extra* forms, each stapled into a unit and containing

One copy of the Cover Sheet
One copy of the Budget, and
One copy of the Project Summary Form.

These materials should be submitted to:

Data Support Services Section, REU, National Science Foundation, Room 223, 1800 G Street NW., Washington, DC 20550.

B. REU Supplements

Funding may be requested from any of NSF's directorates to supplement an ongoing NSF research grant or contract. As with other supplement requests, these should be sent directly to the NSF Program Officer who was designated as the cognizant program official when the research award was made.

Requests for supplemental funding should be in the form of a letter, signed by both the principal investigator and the appropriate institutional official. This letter should state clearly that this is a REU Supplement request, and should articulate in some detail the form and nature of the prospective student(s)'s involvement in the research project(s). If the student(s) has not been preselected, a brief description of the selection process and criteria should be included. If the student(s) has been preselected, the grounds for selection and a brief biographical sketch of the student should be included. Normally funds will be available for up to two students, but exceptions will be considered for training additional minority, physically disabled and women students.

The request letter should be accompanied by a signed budget page including information about the funds requested and their proposed use. Use NSF Form 1030 for this purpose. As a guide to budget development, student stipends for summer projects are expected to be at least $2,000 with academic year stipends comparable on a pro rata basis. All student costs should be entered at line F. of Form 1030. Total costs are expected to average about $4,000 per student. The amount of total indirect costs allowed for REU Supplements (enter at line I of form 1030 is limited to 25% of the student stipends. Attach the letter of request and form 1030 of the Cover Sheet (Appendix II of the REU Program Announcement) and a Project Summary Form (Appendix IV of the REU Program Announcement) and mail to the appropriate NSF Program Director.

III. Proposal Evaluation

REU Sites proposals will be evaluated by external merit review, involving scientists, engineers and mathematicians drawn from the academic and industrial community.

REU Supplements proposals will be evaluated by NSF program staff.

The same general evaluation criteria will be applied to all REU proposals:

- The appropriateness and value of the educational experience for the student(s), particularly the appropriateness of the research project(s) for undergraduate involvement and the nature of student participation in the these activities.
- The quality of the supervisor(s) and attendant facilities, including any specialized equipment and its availability to student participants, and the proposer's experience with undergraduate research activities.
- The overall merit of the research activities.
- Additional criteria will be applied to proposals to establish REU Sites:
- The adequacy of procedures for selecting participants, and for matching selected participants with research supervisors;
- The quality of plans for student preparation and followthrough designed to promote continuation of student interest and involvement in research;
- The effectiveness of arrangements for managing the project;
- The record of the institute in motivating students to pursue careers in mathematics, science or engineering;
- The degree of institutional commitment to the project;
- The plans for involving underrepresented groups in research.

IV. Program Assessment

The National Science Foundation periodically reviews its programs to assess whether they are achieving their goals. Evaluation of the REU program necessarily involves assessing the impact of the research experience on the undergraduate participants. The Project Summary Form included in the REU Program Announcement as Appendix IV requests information about the makeup of the anticipated student participants. Those receiving REU awards must keep track of the makeup of the actual student participants. The student profile information should be submitted at the time of the Final Project Report. However, in some cases, this information may be requested by NSF prior to the date of completion of the award.

V. NSF Contacts

The REU Program Announcement may be obtained by contacting: NSF Forms and Publications, Room 232, National Science Foundation, Washington, DC 20550, (202) 357–7861.

VI. Other Programs

NSF Guide to Programs (NSF 86–40) briefly describes all Foundation programs, most of which are open to all institutions. It is available at most institutions or may be obtained at no cost by contacting the Forms and Publications Unit, Room 232, NSF, Washington, DC 20550 (202/357–7861). Some programs of special interest to undergraduate faculty are described below.

- The NSF has several programs directed toward improving *precollege* science, mathematics and technology

education. In most cases, college and university faculty write proposals and direct the projects supported by these programs. For information on *Applications of Advanced Technologies, Informal Science Education, Instructional Materials Development, or Research in Teaching and Learning*, contact the Division of Materials Development, Research and Informal Science Education, Room 635, NSF, Washington, DC 20550 (202/357–7452). For information on *Science and Mathematics Education Networks, Teacher Preparation, Teacher Enhancement, or Presidential Awards for Excellence in Science and Mathematics Teaching*, contact the Division of Teacher Preparation and Enhancement, Room 635, NSF, Washington, DC 20550 (202/357–7073).

• Information on *Graduate Research Fellowships* and *Minority Graduate Research Fellowships* may be obtained by contacting the National Research Council, 2101 Constitution Avenue, Washington, DC 20418.

• The *Undergraduate Faculty Enhancement Program* (UFE) offers Grants for Undergraduate Faculty Seminars and Conferences to provide opportunities for groups of faculty to learn about new techniques and new developments in their fields. Awards are made to conduct seminars, short courses, workshops or similar activities for groups of faculty members from outside the grantee institution. For further information about the Undergraduate Faculty Enhancement Program, contact the Office of Undergraduate Science, Engineering, and Mathematics Education, Room 639, NSF, Washington, DC 20550 (202/357–7051).

• Through *Research Opportunity Awards* (ROA), faculty members at institutions with limited research opportunities may work with investigators who already hold or are applying for an NSF research grant. The experience gained under ROA may help the faculty member from the participating institution to become more competitive in submitting an independent research proposal, and may provide experience that will be reflected in improved teaching at the home institution. Full-time faculty members interested in ROA collaborations must make their own arrangements with a host investigator and institution. Formal application to NSF is made by the host institution as part of an initial proposal to NSF or, if an award already is in progress, as a supplement to that award. For further information about Research Opportunity Awards, contact the Research Opportunities Award Program, Room 1225, NSF, Washington, DC 20550 (202/357–7456)

• The *Research in Undergraduate Institutions* (RUI) activity is part of the Foundation's effort to broaden the base for science and engineering research and to enhance the scientific and technical training of students. The objectives of the RUI activity are to strengthen the research environments in academic departments that are oriented primarily to undergraduate education in science and engineering, and to promote the coupling of research and education at predominantly undergraduate institutions. RUI provides support for research and research equipment for investigators in non-doctoral departments in predominantly undergraduate institutions. RUI proposals are evaluated and funded on a competitive basis by NSF's research programs. For further information contact the Division of Research Initiation and Improvement, Room 1225, NSF, Washington, DC 20550 (202/357–7456).

• NSF's *Facilitation Awards for Handicapped Scientists and Engineers* (FAH) activity enhances opportunities for disabled individuals to participate in research. Funds are provided to purchase special equipment, modify equipment, or provide other services required specifically for the work undertaken on an NSF-supported project (see NSF 84–62, Rev 5–87). Funds from regular program budgets are provided for handicapped senior personnel, other professionals, and students, as a supplement to an existing award or as part of a new award. General inquiries may be made to the Coordinator, Facilitation Awards for Handicapped Scientists and Engineers, Room 1225, NSF, Washington, DC 20550 (202/357–7456).

• The *Minority Research Initiation* Program (MRI) supports research by minority scientists and engineers who hold full-time faculty or research-related positions, who (1) are members of ethnic minority groups that are significantly underrepresented in the science and engineering career pool; (2) have not previously received Federal research support as faculty members; and (3) wish to initiate research efforts on their campuses, thereby increasing their ability to compete successfully for other research support. Information about programs for minority scientists and engineers may be obtained from the MRI Program Director, Room 1225, NSF, Washington, DC 20550 (202/357–7350).

• The *Visiting Professorships for Women* Program (VPW) enables experienced women scientists and engineers to undertake advanced research at a host institution—a university or 4-year college which has the necessary facilities. In addition to her research responsibilities, the visiting professor undertakes lecturing, counseling and other activities to increase the visibility of women scientists in the academic environment of the host institution, and to provide encouragement for other women to pursue science, mathematics or engineering careers. Additional information may be obtained by contacting the VPW Program Director, Room 1225, NSF, Washington, DC 20550 (202/357–7734).

• The *Research Opportunities for Women Scientists and Engineers* Program (ROW) is designed to provide opportunities for independent research for women who previously have not been principal investigators, or who are reentering the research community. Additional information may be obtained by contacting the ROW Coordinator, NSF, Washington, DC 20550 (202/357–7734).

• The *Undergraduate Curriculum Development Program* includes two components: Engineering Curriculum Development and Calculus Curriculum Development.

—The *Undergraduate Curriculum Development in Engineering Program* is designed to revise and improve undergraduate engineering education. There is a pressing need to revise the curricula of undergraduate engineering education with a view toward more emphasis on the laboratory experience and on technology-driven fields such as design, manufacturing, and computer-integrated engineering. There is also a need to explore the use of new technologies to improve the quality and productivity of the undergraduate engineering education system. Additional information about this program may be obtained from the Undergraduate Curriculum Development in Engineering Program, Office of Undergraduate Science, Engineering, and Mathematics Education, Room 639, NSF, Washington, DC 20550 (202/357–7051).

—The *The Undergraduate Curriculum Development in Mathematics Program* supports proposals that will have significant impact on the nature of calculus instruction in this Nation through the development of model curricula and prototypical instructional materials. For additional information contact the Office of Undergraduate Science, Engineering

and Mathematics Education, Room 639, NSF, Washington, DC 20550 (202/357–7051).

• MOSIS is a joint NSF/DARPA Program that allows qualifying universities to use the DARPA fast turnaround VLSI implementation facility as part of university based research and educational programs. Students taking undergraduate VLSI design courses can now have digital systems that they design, fabricated and packaged and returned to them for testing and experimentation. For more information, contact the Division of Microelectronic Information Processing Systems, Room 414, NSF, Washington, DC 20550 (202/357–7853).

• The goal of the *Instrumentation and Laboratory Improvement Program* is to improve the quality of the undergraduate curriculum by supporting projects to develop new or improved instrument-based undergraduate laboratory and/or field courses in science, mathematics or engineering. For additional information contact the Office of Undergraduate Science, Engineering and Mathematics Education, Room 639, NSF, Washington, DC 20550 (202/357–7051).

• The *Career Access Opportunities in Science and Technology for Women, Minorities and the Disabled* is an undergraduate program that supplements efforts at the pre-college level to address the underrepresentation of women, minorities and the disabled in the Nation's ranks of science and engineering professionals. There are two activities:

—*Comprehensie Projects for Minorities* supports the establishment of regional centers designed to increase the minority presence in science and engineering and to strengthen such efforts in institutions with significant minority enrollments, and

—*Prototype and Model Projects for Women, Minorities and the Disabled* encourages institutions to create special outreach programs for these target audiences.

For more information, contact the Office of Undergraduate Science, Engineering, and Mathematics Education, NSF, Washington, DC 20550 (202/357–7051).

The Foundation welcomes proposals on behalf of all qualified scientists and engineers, and strongly encourages women, minorities, and the disabled to compete fully in any of the programs described in this document.

In accordance with Federal statutes and regulations and NSF policies, no person on grounds of race, color, age, sex, national origin, or disability shall be excluded from participation in, denied the benefits of, or be subject to discrimination under any program or activity receiving financial assistance from the National Science Foundation.

NSF has TDD (Telephonic Device for the Deaf) capability which enables individuals with hearing impairment to communicate with the Division of Personnel and Management for information relating to NSF programs, employment, or general information. This number is (202) 357–7492.

The Foundation provides awards for research in the sciences and engineering. The awardee is wholly responsible for the conduct of such research and preparation of the results for publication. The Foundation, therefore, does not assume responsibility for such findings or their interpretation.

Catalogue of Federal Domestic Assistance Numbers:

47.041 Engineering
47.049 Mathematical and Physical Sciences
47.050 Geosciences
47.051 Biological, Behavioral and Social Sciences
47.053 Scientific, Technological and International Affairs
47.070 Computer and Information Sciences and Engineering

Animal Welfare

If any REU activity is likely to involve experiments using nonhuman vertebrate animals or in maintaining such animals in captivity, the "Animal Welfare" block on the cover sheet must be checked. In such proposals, the narrative also must contain an assurance that the proposing institution complies with the relevant guidelines issued by the National Institutes of Health in the *Guide for the Care and Use of Laboratory Animals* (NIH Publication 85–23, Revised 1985). The particular attention of proposers is directed to "U.S. Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research, and Training" to be found in the appendix to that Guide. Individuals desiring a copy of these Guidelines can obtain one from the Division of Research Services, Building 31, Room 4B59, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892. (NSF does not maintain a supply of this document.)

Robert Watson,

Head, Office of Undergraduate Science, Engineering, and Mathematics Education, National Science Foundation.

[FR Doc. 88–13036 Filed 6–9–88; 8:45 am]

BILLING CODE 7555-01

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–440, 50–441]

Cleveland Electric Illuminating Co.; Receipt of Petition for Director's Decision

Notice is hereby given that Ms. Connie Kline, Ms. Theresa Burling, Mr. Russ Bimber, and Mr. Ron O'Connell, on behalf of Concerned Citizens of Lake County, Concerned Citizens of Geauga County, and Concerned Citizens of Ashtabula County, have supplemented their request that the U.S. Nuclear Regulatory Commission require the Cleveland Electric Illuminating Co. to correct certain alleged deficiencies in its Emergency Preparedness Information Handbook for the Perry Nuclear Facility and to redistribute a corrected handbook.

This supplement to the petition is being handled as a request for action pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on the request within a reasonable time. Copies of the amended petition are available for inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Local Public Document Room for the Perry Nuclear Power Plant at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland, this 6th day of June, 1988.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 88–13100 Filed 6–9–88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–369 and 50–370]

Duke Power Co; Issuance of Amendments to Facility Operating License

The U.S. Nucler Regulatory Commission (Commission) has issued Amendment No. 85 to Facility Operating License No. NPF–9 and Amendment No. 66 to Facility Operating License NPF–17 issued to Duke Power Company, (the licensee), which revised the Technical Specifications for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina. The amendments were effective as of the date of issuance.

The amendments changed Technical Specifications 5.3.1 "Fuel Assemblies" to provide increased flexibility in the substitution of solid stainless steel rods and open water channels for fuel rods in reconstitutible fuel assemblies to be reinserted in the reactor core during a refueling outage.

The application for the amendments 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 amendments.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on April 29, 1988 (53 FR 15478). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact (53 FR 17991) related to the action and has concluded that an environmental impact statement is not warranted and that the issuance of this amendment will not have a significant adverse effect on the quality of human environment.

For further details with respect to the action see (1) the application for amendment dated April 1, 1988, which modified a letter dated February 5, 1988, (2) Amendment No. 85 to License No. NPF–9, and Amendment No. 66 to License No. NPF–17, and (3) the Commission's related Safety Evaluation and Environmental Assessment.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. 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.

Dated at Rockville, Maryland, this 1st day of June 1988.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Project Manager, Project Directorate 11–3, Division of Reactor Projects I/II.

[FR Doc. 88–13101 Filed 6–9–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322]

Long Island Lighting Co. (Shoreham Nuclear Power Station); Exemption

I

Long Island Lighting Company (the licensee) is the holder of Facility Operating License No. NPF–36 which authorizes operation of thie Shoreham Nuclear Power Station (SNPS). The facility is a boiling water reactor and is currently at a power level not to exceed 121.8 megawatts thermal (five percent of full rated power) at the licensee's site located in Suffolk County, New York. This license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

II

10 CFR 50.54(w), requires that each commercial power reactor licensee shall, by June 29, 1982, take reasonable steps to obtain on-site property damage insurance available at reasonable costs and on reasonable terms from private sources or to demonstrate to the satisfaction of the Nuclear Regulatory Commission (the Commission) (NRC) that it possesses on equivalent amount of protection covering the facility, provided, among other things, that this insurance must have a minimum coverage limit no less than the combined total of (i) that offered by either American Nuclear Insurers (ANI) and Mutual Atomic Energy Reinsurance Pool (MAERP) jointly or Nuclear Mutual Limited (NML); plus (ii) that offered by Nuclear Electric Insurance Limited (NEIL), the Edison Electric Institute (EEI), ANI and MAERP jointly, or NML as excess property insurance. On August 5, 1987, the NRC amended this regulation to require a minimum coverage limit for the reactor station site of either 1.06 billion dollars or whatever amount of insurance is generally available from private sources, whichever is less (52 FR 28963).

III

The licensee prior to this change was required to carry the full amount of on-site primary property damage insurance coverage (620 million dollars). By letter dated November 23, 1987, the licensee requested an exemption to reduce the amount of primary property damage insurance from the full amount of 1.06 billion dollars to 337 million dollars. The licensee states that the requirement to fully comply with the regulation is an undue financial hardship and burden. Maintaining a lower level of primary property damage insurance will reduce the capital cost for SNPS by 2.4 million dollars a year until LILCO is authorized to operate SNPS at power levels greater than five percent of full rated power. By letter dated November 23, 1987 the licensee provided its technical justification that 337 million dollars of primary property damage insurance provides an adequate level of coverage to clean up or return the SNPS plant to a condition ready for decommissioning, if necessary, following an accident.

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a) are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) present special circumstances. 10 CFR 50.12(a)(2)(iii) describes the special circumstances in that the exemption would provide relief from this regulation if compliance would result in undue hardship or costs in excess of those contemplated when the regulation was adopted, or that costs are significantly in excess of those incurred by others similarly situated.

By letter dated November 23, 1987, the licensee requested a schedular exemption from one of the requirements of 10 CFR 50.54(w)(1) as amended August 5, 1987 (52 FR 28963). The licensee has requested that it not be required to carry the full amount (1.06 billion dollars) of the required on site property insurance until such time as it is authorized to operate the SNPS at a power greater than five percent of full power. This limit is based on LILCO's current low power operating license issued July 3, 1985. Issuance of a full power license for SNPS has been delayed due to the unprecedented litigation of emergency planning issues.

LILCO contends that imposition of the full amount of required on-site damage insurance prior to when it is authorized to operate SNPS at power levels greater than five percent of full rated power would result in the following:

1. Undue hardship based on New York State cost accounting requirements,

2. Cost in excess of those contemplated when the regulation was adopted based on its current 121.8 MW(t) operating limit, and

3. The costs are significantly in excess of those incurred by others similarly situated (each operating at 50 MW(e)).

LILCO has requested that in lieu of the current required coverage, that it be allowed to carry 337 million dollars of on-site insurance. LILCO calculated this amount based on the results and methods from NUREG/CR–2601 used to derive the current 1.06 billion dollar required amount.

IV

The staff has reviewed the licensee's request for the schedular exemption and finds that requiring the licensee to carry the full amount of on-site property damage insurance coverage, 1.06 billion dollars, as required by 10 CFR 50.54(w)(1), results in undue hardship, costs in excess of those contemplated when the regulation was adopted and costs in excess of those incurred by others similarly situated.

The staff also concludes that issuance of this schedular exemption will have no significant effect on the safety of the public or the plant. Further, the licensee has shown special circumstances as described in the staff's supporting safety evaluation to support the schedular exemption.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this schedular exemption will have no significant impact on the environment (May 19, 1988, 53 FR 17992).

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12(a)(1) the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. As indicated above, compliance with 10 CFR 50.54(w)(1) would result in undue costs considering the current operational restrictions placed on the Shoreham facility, and that the cost is significantly in excess of the relative cost incurred for similar insurance by the other facilities operating at similar power ranges covered by the rule. Thus, special circumstances as described in § 50.12(a)(2)(iii) exist. Consequently, the exemption falls within special circumstances determined by the Commission to be sufficient to support the exemption. Therefore, the Commission hereby approves the following exemption:

> The licensee is exempt from the requirement to carry on-site property damage insurance coverage in the full amount called for by 10 CFR 50.54(w)(1) until such time that an authorization to operate SNPS at power levels grater than five percent is granted, provided that the licensee maintain such on-site property damage insurance in an amount not less than 337 million dollars.

The applicant's letter dated November 23, 1987, and the NRC staff's letter and Safety Evaluation dated May 31, 1988, related to this action are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786.

The exemption is effective from August 5, 1987.

Dated at Rockville, Maryland, this 31st day of May 1988.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-13102 Filed 6-9-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-19652, License No. 49-21004-01, EA 88-107]

Riverton Memorial Hospital—Health Trust, Inc. Order Modifying License

I

Riverton Memorial Hospital—Health Trust, Inc., Riverton, Wyoming, is the holder of specific byproduct material License No. 49-21004-01 issued by the Nuclear Regulatory Commission (Commission/NRC) pursuant to 10 CFR Parts 30, 31, and 35. The license authorizes the licensee to use (1) any byproduct material specified by 10 CFR 35.100 and 35.200 (under the new revised 10 CFR Part 35, this requirement is under Subparts D, E, and F) for diagnostic procedures, (2) any byproduct material listed in 10 CFR 31.11 for *in vitro* studies, and (3) iodine-131 for diagnosis and treatment of hyperthyroidism and cardiac dysfunction. The license was originally issued on June 2, 1982; was most recently amended on July 22, 1987; was due to expire on May 31, 1987; and is currently in effect pursuant to a timely application for renewal in accordance with 10 CFR 2.109.

II

The licensee's facility was initially inspected on September 12, 1983. As a result of that inspection, the licensee was cited for a violation concerning its failure to conduct a quarterly Radiation Safety Committee meeting.

The licensee facility was next inspected during a special, unannounced inspection conducted on September 30 and October 1, 1986. As a result of this inspection, numerous violations were discovered and, therefore, an enforcement conference was held with the licensee on November 4, 1986. At the enforcement conference, the licensee expressed concern over its ability to staff the hospital's nuclear medicine program with adequately trained personnel. Specifically, the licensee was searching for a staff radiologist who could also fill the vacant Radiation Safety Officer (RSO) function.

Subsequently, a Notice of Violation (NOV) and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated January 21, 1987. In the NOV, the licensee was cited for failure to (1) restrict the use of licensed materials to physicians who are authorized and qualified, (2) properly follow procedures for the assay of molybdenum-99, (3) have personnel wear dosimetry when working with licensed material, (4) conduct linearity tests on the dose calibrator, (5) conduct quarterly Radiation Safety Committee meetings, (6) conduct leak tests of sealed calibration sources, (7) conduct physical inventories of sealed calibration sources, and (8) notify NRC of the hospital's name change. The NRC letter of January 21, 1987, specifically highlighted the fact that the licensee had need for increased management attention to the radiation protection program. To emphasize the importance of complying with NRC requirements, a Two Thousand Five Hundred Dollar ($2,500) Civil Penalty was proposed.

The licensee responded to the NOV and Proposed Imposition of Civil Penalty by letters dated February 12 and 13, 1987. After consideration of the licensee's response to the violations and request for mitigation of the Civil Penalty, the NRC concluded that the violation did occur and that the Civil Penalty should not be mitigated. Consequently, the Civil Penalty was imposed by Order dated June 11, 1987. The licensee paid the Civil Penalty by letter dated June 19, 1987.

On March 24, 1988, members of the Region IV inspection staff again conducted a special, unannounced radiation safety inspection of the licensee's facility. Resulting from this inspection and an April 15, 1988, enforcement conference, the following violations were identified: (1) Performance of a therapy procedure by unauthorized individual (Repeat violation, Inspection No. 86-01) (2) failure of the Radiation Safety Committee to meet quarterly (Repeat violation, Inspection Nos. 83-01, 86-01), (3) failure to instruct a nuclear medicine department worker, (4) failure to perform a physical inventory of sealed sources (Repeat violation, Inspection No. 86-01), (5) failure to make a record of a diagnostic misadministration, (6) failure to secure a copy of a radioactive materials license on which a visiting physician was named, (7) failure to include all required information on records for radiopharmaceutical administrations, and (8) failure to notify NRC of authorized users who were named on the license but who were no longer in the licensee's employ. Several of these violations were repeat violations.

At the April 15, 1988, enforcement conference, the licensee again expressed concern regarding its inability to secure adequately trained personnel to staff the nuclear medicine department. In discussing this concern, the NRC staff observed that the licensee's representatives present at the Enforcement Conference were also unaware of the NRC's rules and regulations. In particular, the radiologist who had serving as RSO for about a year was unfamiliar with the license and its provisions. Both the administrator and the radiologist were unfamiliar with the mechanics of seeking an amendment to the license, neither was aware of the current license amendment, and both were confused as to whether their consultant or the licensee was processing a request to amend the license. Moreover, the chief technologist had been demoted about 6 months previous to the inspection, and that position had been filled by an interim supervisor who recently gave notice of his intent to leave the licensee's employ. The only qualified nuclear medicine technologist had terminated her employment with the licensee following the March 24, 1988, inspection.

Prior to the April 15, 1988, enforcement conference, a Confirmation of Action Letter (CAL) was issued on March 29, 1988. The CAL confirmed the licensee's commitment to establish written controls, to notify the staff that they were specifically precluded from conducting therapeutic administrations, to submit specific information on a departmental meeting, and to submit the qualifications of the RSO in order that he could be authorized to conduct therapeutic procedures. The licensee has subsequently fulfilled these commitments.

III

Based on (1) the NRC inspections of September 30 and October 1, 1986, and March 24, 1988, that identified numerous violations, several of which were repeat violations, and (2) the licensee's admitted inability to staff the nuclear medicine department with adequately trained personnel, NRC concludes that the radiation safety program at Riverton Memorial Hospital has not been properly implemented. Consequently, without the further action ordered here, I lack the reasonable assurance that the health and safety of the public will be adequately protected. Accordingly, immediate action is required to provide assurance that licensed activities will be properly supervised and conducted. Therefore, I have determined, pursuant to 10 CFR 2.204, that the public health, safety, and interest require that the license should be modified, as described below, effective immediately, and that no prior notice is required.

IV

Accordingly, pursuant to sections 81, 161(b), (i), and (o), and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Parts 30 and 35, it is hereby ordered, that effective immediately:

License No. 49–21004–01 is modified to require that:

A. The licensee notify the NRC Region IV office by telephone prior to the effective date of any employment termination of any personnel directly involved in the nuclear medicine department's licensed activities. For any employment termination where licensee has had less than 24 hours prior notice, the licensee will notify the NRC Region IV office promptly but no later than 12 noon of the next business day after its becoming aware of such personnel's departure. The personnel subject to this notification requirement include (1) the RSO, (2) authorized users, (3) the interim nuclear medicine department supervisor, and (4) technologists who are currently involved in, or subsequent to the date of this Order, technologists who are in the future involved in licensed activities.

B. An independent party, qualified in the area of radiation safety, perform quarterly audits of the Radiation Safety Program. The audit program shall continue for a period of 1 year. The credentials of the independent party and the proposed audits shall be submitted to NRC Region IV for review and approval within 30 days of the date of this order.

Audits shall be conducted for the purpose of evaluating the effectiveness of the radiation safety program in assuring adherence to NRC requirements and safe performance of licensed activities. These audits shall include, at a minimum:

1. Assessment of management control and oversight of the program.

2. Evaluation of the adequacy of staffing levels, training and qualification of personnel involved in licensed activities, and implementation of the program.

3. Observation and evaluation of the performance of personnel engaged in licensed activities.

4. Assessment of the quality and accuracy of records required to be maintained concerning licensed activities.

The first such independent audit shall be conducted within 1 month of the NRC's notification to the licensee of NRC's approval of the audit program. The results of each audit shall be simultaneously provided to the Hospital Administrator and the Regional Administrator, NRC Region IV, within 2 weeks of completion of the audit. The hospital shall provide to the Regional Administrator, NRC Region IV, within 30 days of receipt of the results of each audit, a description of the corrective actions taken for each recommendation by the independent party and justification for any recommendation not accepted.

The Regional Administrator, NRC Region IV, may in writing, relax or rescind any of these conditions for good cause shown.

V

The licensee or any other person adversely affected by this Order may request a hearing within 30 days after issuance of this Order. Any answer to this Order or any request for hearing shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement at the same address and to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). Upon the failure of the licensee to answer or request a hearing within the specified time, this Order shall be final without further proceedings. *An answer to this order or a request for hearing shall not stay the immediate effectiveness of this order.*

If a hearing is requested, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

For the Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

Dated at Rockville, Maryland, this 3rd day of June 1988.

[FR Doc. 88–13103 Filed 6–9–88; 8:45 am]

BILLING CODE 7590–01–M

POSTAL SERVICE

Privacy Act of 1974; Computer Matching Program—Postal Service/ City of New York Human Resources Administration

AGENCY: United States Postal Service.

ACTION: Notice of Computer Matching Program—U.S. Postal Service/City of New York Human Resources Administration.

SUMMARY: The Postal Service plans to participate in a computer matching program at the request of the City of New York Human Resources Administration in its efforts to detect fraud, waste, and abuse in the public assistance programs administered by the agency. The match will compare certain portions of the Postal Service's Payroll System File with the City's master file of public assistance clients.

DATE: The match is expected to begin about June 1988.

ADDRESS: Send any comments to USPS Record 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 Monday through Friday between 9:00 a.m. and 4:00 p.m. at this address.

FOR FURTHER INFORMATION CONTACT: Barbara Fuller, USPS Records Office (202) 268–5161.

SUPPLEMENTARY INFORMATION: On February 4, 1987, the Postal Service published notice (52 FR 3518) of a computer match of certain portions of the Postal Service's Payroll System File (050.020, Finance Records—Payroll System) with the City of New York Human Resources Administration's (NY HRA) master file of public assistance clients. The purpose of the match was to assist NY HRA in its efforts to identify and current postal employees receiving public assistance, food stamps, or Medicaid benefits from the City of New York to which they were not entitled. That match resulted in the identification and removal of several employees from the benefit rolls and the reduction of benefits of other employees who failed to report USPS earnings—with a net savings of monies substantially in excess of the cost of the match. USPS has agreed to participate in a follow-up match 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 these 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 City of New York Human Resources Administration (NY HRA)

a. *Authority:* 39 U.S.C. 404.

b. *Program Description:* Under the planned program, the NYB HRA will submit to the USPS a computer tape of its recipients of public assistance, food stamps, or Medicaid benefits identified by name and social security account number (SSAN). The USPS will match that tape, using name and SSAN, against its payroll system file (USPS 050.020, Finance Records—Payroll System) of current postal employees in the City of New York. The purpose of this match is to identify any current postal employees who are receiving benefits to which they are not entitled under these programs. In instances where SSANs match ("hits"), the USPS will disclose to the NY HRA the following information from its payroll file: Name, SSAN, date of birth, home address, date started on payroll, facility where employed, and gross wage information.

The validity of "matched" employee/ benefit recipient information will be verified by the NY HRA. Case files will be evaluated, recipients interviewed to obtain supplementary verification of employment, and written notice of appeal rights given to recipients prior to initiation of steps to have benefits terminated or reduced. Subsequent actions may include the collection of outstanding debts owed by those employees 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. 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 40 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 matching program will be on a one time basis and is expected to begin about June 1988 and end no later than December 1989.

d. *Security:* The USPS personnel who perform the match will (a) have the only USPS access to the NY HRA computer tape, (b) use it only for the purpose of the match, and (c) safeguard it from unauthorized access. Likewise, postal employee information disclosed to the NY HRA will be used by authorized NY HRA personnel only for the purpose of the match 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 USPS will not retain or copy the tape provided by the NY HRA and must return it upon completion of the match. 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 matching project.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 88–13119 Filed 6–9–88; 8:45 am]

BILLING CODE 7710–12–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1988, shall be at the rate of 26 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning July 1, 1988, 30.1 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 69.9 percent of the taxes collected under such sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: June 2, 1988.

By Authority of the Board.
Beatrice Ezerski,
Secretary to the Board.
[FR Doc. 88-13044 Filed 6-9-88; 8:45 a.m.]
BILLING CODE 7905-01-M

SMALL BUSINESS ADMINISTRATION

Discontinuance of Consideration of Disaster Declaration Requests

The Small Business Administration is experiencing a severe shortage of operating funds for the administration of the disaster loan programs authorized by section 7(b) of the Small Business Act. The Agency has taken every possible step to conserve salary and expense funds so as to continue disaster loan-making operations as long as possible. Additionally, the Agency has realigned funds to help sustain salaries and expenses for the disaster loan programs. However, the need for additional operating funds has become so acute as to require further action to avoid the unlawful expenditure of funds which have not been appropriated.

Accordingly, I have determined that, beginning June 3, 1988, it is necessary to cease to consider any requests for disaster declarations, or to issue an SBA disaster declaration pursuant to a declaration of a major disaster by the President, or to designate an economic injury disaster loan area pursuant to a designation by the Secretary of Agriculture, until either a supplemental appropriation for the current fiscal year is approved, or an appropriation for the fiscal year beginning October 1, 1988 is approved.

Further, there can be no assurance that the Agency will be able to accept or process applications for disasters already declared, or make disbursements on loans already approved, until additional funds are available.

James Abdnor,
Administrator.
Date: june 6, 1988.

[FR Doc. 88-13099 Filed 6-9-88; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-88-20]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: June 30, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Council, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (ACG-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on June 6, 1988.
Denise D. Hall,
Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23455	Reeve Aleutian Airways, Inc	14 CFR 121.574(a) (1), (3), and (4)	To extend Exemption No. 4692 that allows petitioner to carry and operate aboard petitioner's aircraft certain oxygen storage, generating, and dispensing equipment for medical use by patients requiring emergency medical attention.
25560	Lake Mead Air, Inc	14 CFR 21.181 and 135.143	To allow petitioner and all other single-engine Part 135 operators to operate in aaccordance with an approved minimum equipment list based upon a master minimum equipment list for single-engine aircraft.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought, disposition
25233	Alaska Air Carriers Association	14 CFR 43.3(g)	To exend Exemption No. 4802 that allows pilots employed by petitioner's member air carriers to continue to perform the preventive maintenance function of removing and/or replacing the passenger seats of aircraft used in Part 135 opperations. Grant, May 23, 1988, Exemption No. 4802A.
015NM	Avions Dassault-Breguet Aviation	14 CFR 25.813(e)	To permit installation of fixed partitions with doors in the cabin of Falcon 900 aircraft. Denial, May 16, 1988, Exemption No. 4933.

[FR Doc. 88-13021 Filed 6-9-88; 8:45 am]
BILLING CODE 4910-13-M

[Summary Notice No. PE-88-21]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: June 30, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue NW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (3), and (g) of § 11.27 of Part 11 of the Federal Aviation regulations (14 CFR Part 11).

Issued in Washington, DC, on June 6, 1988.

Denise D. Hall,

Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23938	Flying Tiger Line, Inc.	14 CFR 121.547 and 121.583(a)(8)	To extend Exemption No. 4110A that allows petitioner to carry employee dependents on its B-727-100 freighter aircraft under certain conditions set forth in that exemption.
24808	Pan American World Airways.	14 CFR 121.433(c)(1)	To amend Exemption No. 4833 to allow petitioner, when performing training and checking under that exemption, to permit Line Oriented Flight Training (LOFT) to be accomplished prior to proficiency training.
25604	Northeast Jet Center Ltd.	14 CFR 91.1191(a)(4); 135.165(a) (5) and (6); and 135.165(b) (5), (6), and (7).	To allow petitioner to conduct certain extended overwater flights with only one long-range navigation system and one HF communications system.
25618	Giridhar Gopal	14 CFR 61.39(a)(4)	To allow petitoner to obtain a flight test for the Commercial Pilot Certificate before his 18th birthday.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
13199	American Airlines Flight Academy.	14 CFR 61.63(d)(32) and (3)	To extend Exemption No. 4652 that allows the use of an approved visual simulator by American Airlines for applicants for a Cessna 500 (CE-500) type rating who have completed the training course of American Airlines as approved by the FAA pursuant to § 121.424(d). Grant, May 31, 1988, Exemption No. 4652A.
21780	United States Air Force Auxiliary.	14 CFR 61.118	To allow Civil Air Patrol members holding private pilot certificates to be reimbursed for fuel, oil, and maintenance while serving on official Civil Air Patrol missions. Grant, May 27, 1988, Exemption No. 4042B.
22576	Ray's Flight Systems d/b/a/ Airline Crew Training.	14 CFR 61.63(d) (2) and (3); 61.157(d) (1) and (2); and Appendix A of Part 61.	To extend Exemption No. 3544, as amended, that allows petitioner to use the FAA-approved visual simulators to meet certain training and testing requirements. Grant, May 31, 1988, Exemption No. 3544C.
23713	SimuFlite Training International Division.	14 CFR 61.57(a)(1), (c), and (d); 61.58(c) (1) and (d); 61.63(d) (2) and (3); 61.67(d)(2); 61.157(d) (1) and (2); and (e) (1) and (2); Appendix A of Part 61; and Appendix H of Part 121.	To amend Exemption No. 3931C that allows petitioner to use the FAA-approved simulators to meet certain training and testing requirements. Grant, May 31, 1988, Exemption No. 3931D.
23907	Bolivar Aviation	14 CFR 141.65	To allow petitioner to recommend graduates of its approved certification courses for flight instructor and airline transport certificates and ratings without taking the FAA's written tests. Grant, May 27, 1988, Exemption No. 4045B.
23921	Flight Safety International.	14 CFR 61.57(a)(1), (c), and (d); 61.58(c) (1) and (d); 61.63(d) (2) and (3); 61.67(d)(2); 61.157(d) (1) and (2) and (e) (1) and (2); Appendix A of Part 61; and Appendix H of Part 121.	To amend Exemption No. 4058, as amended, that allows petitioner to use the FAA-approved simulators to meet certain training and testing requirements. Grant, May 31, 1988, Exemption No. 4058D.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
25426	Vieques Air Link, Inc.	14 CFR 135.243(b)(3)	To allow petitioner to operate without the requirement that its pilots hold an airline transport certificate. In the alternative, petitioner requests an exemption from § 135.293(a)(4) to allow its pilots to be exempt from the instrument approach procedures required for tests and checks. Denial, June 1, 1988, Exemption No. 40938.
25595	Continental Airlines	14 CFR 135.159(a)	To allow petitioner and certain commuter airlines in which petitioner has an ownership interest to operate Embraer-120 (EMB-120) and Beech-1900 (B-1900) airplanes without being equipped with a gyroscopic rate-of-turn indicator. A backup, third attitude indicator would be substituted for the gyroscopic rate-of-turn indicator. Grant, June 3, 1988, Exemption No. 4939.

[FR Doc. 88-13022 Filed 6-9-88; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: June 6, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: 7018 and 7018-A.
Type of Review: New Collection.
Title: Employer's Order Blank for Forms—Form 7018; Agricultural Employer's Order Blank for Forms—Form 7018-A.
Description: Form 7018 and Form 7018-A allows taxpayers who must file information returns a systematic way to order information tax forms materials.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 923,000.
Estimated Burden Hours Per Response: 12 minutes.
Frequency of Response: Annually.
Estimated Average Reporting Burden: 46,150 hours.

OMB Number: 1545-0956.
Form Number: 5500EZ.
Type of Review: Revision.
Title: Annual Return of One-Participant Pension Benefit Plan.
Description: Form 5500EZ is an annual return filed by a one participant or one participant and spouse pension plan. The IRS uses this data to determine if the plan appears to be operating properly as required under the law or whether the plan should be audited.
Respondents: Farms, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 300,000.
Estimated Burden Hours Per Response: 1 hour 25 minutes.
Frequency of Response: Annually.
Estimated Average Reporting Burden: 211,635 hours.
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,
Departmental Reports Management Officer.

[FR Doc. 88-13048 Filed 6-9-88; 8:45 am]
BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: June 3, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0012.
Form Number: 3189.
Type of Review: Reinstatement.
Title: Lay Order Application and Approval.
Description: Customs Form 3189 is used to extend the time for merchandise or baggage to remain on a wharf or pier from the allowed 5 days after a vessel has entered. It is also used in extending the time limit in the case of transferring zone restricted merchandise into Customs territory.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 2,400.
Estimated Burden Hours Per Response: 5 minutes.
Frequency of Response: On Occasion.
Estimated Average Reporting Burden: 5,998 hours.

OMB Number: 1515-0097.
Form Number: None.
Type of Review: Extension.
Title: Customs Regulations Relating to Copyrights.
Description: Copyright owners who choose to record a copyright with Customs for import protection must establish validity of the copyright, pay an administration fee, and provide samples and other information to aid Customs officers in identifying piratical copies.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 600.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: On Occasion.
Estimated Average Reporting Burden: 600 hours.
Clearance Officer: John Poore (202) 566-9181, U.S. Customs Service, Room 6426, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88–13049 Filed 6–9–88; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: June 3, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue N.W., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.

Form Number: IRS Form 8655.

Type of Review: New.

Title: Reporting Agent Authorization.

Description: These forms allow taxpayers to designate a reporting agent to file certain employment tax returns on magnetic tape, and to submit Federal tax deposits. These forms allow IRS to disclose tax account information and to provide duplicate copies of taxpayer correspondence to authorized reporting agents. Reporting agents are persons or organizations preparing and filing magnetic tape equivalents of Federal tax returns and/or submitting Federal tax deposits.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 30.

Estimated Burden Hours Per Response: 5 minutes.

Frequency of Response: On Occasion.

Estimated Average Reporting Burden: 8,000 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88–13050 Filed 6–9–88; 8:45 am]

BILLING CODE 4810–25–M

Customs Service

[T.D. 88–30]

Conditional Accreditation of a Commercial Laboratory

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

ACTION: Notice of conditional accreditation of a commercial laboratory.

SUMMARY: Pursuant to § 151.13, Customs Regulations (19 CFR 151.13), ComSource, Inc., 809 Tatar Street, Pasadena, Texas 77506, applied to Customs for accreditation to analyze imported petroleum and petroleum products and organic chemicals.

Customs has determined that the application is complete and acceptable. Therefore, under the provision of § 151.13(c), ComSource, Inc., is conditionally accredited to analyze the products named below for the characteristics indicated in all Customs districts.

Petroleum and petroleum products, for:
- API gravity,
- sediment and water (S&W),
- distillation characteristics and
- antiknock index; and

Organic chemicals in bulk and in liquid form, for:
- identity and
- composition.

EFFECTIVE DATE: May 23, 1988.

FOR FURTHER INFORMATION CONTACT: Roger J. Crain, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229 (202–566–2446).

Dated: May 26, 1988.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 88–13110 Filed 6–9–88; 8:45 am]

BILLING CODE 4820–02–M

VETERANS ADMINISTRATION

Scientific Review and Evaluation Board for Rehabilitation Research and Development; Meeting

In accordance with Pub. L. 92–463, the Veterans Administration gives notice of a meeting of the Scientific Review and Evaluation Board for Rehabilitation Research and Development. This meeting will convene at the Vista International Hotel, 1400 M Street NW., Washington, DC August 2 through August 5, 1988. The session on August 2, 1988, is scheduled to begin at 6:30 p.m. and end at 10:30 p.m. The sessions on August 3, 4, and 5, 1988, are scheduled to begin at 8 a.m. and end at 5 p.m. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service, regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) for the August 2nd session for the discussion of administrative matters, the general status of the program, and the administrative details of the review process. On August 3–5, 1988, the meeting is closed during which the Board will be reviewing research and development applications.

This review involves oral comments, discussion of site visits, staff and consultant critiques of research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy.

Thus, the closing is in accordance with 5 U.S.C. 552b(c)(6) and the determination of the Administrator of Veterans Affairs under section 10(d) of Pub. L. 92–463 as amended by section 5(c) of Pub. L. 94–409.

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Mr. Jon Peters, Program Manager, Rehabilitation Research and Development Service, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC 20420 (Phone: 202–233–5177) at least five days before the meeting.

Dated: May 31, 1988.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 88–13060 Filed 6–9–88; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 112
Friday, June 10, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m.–June 15, 1988.

PLACE: Hearing Room One—1100 L Street NW., Washington, DC 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. TWRA Petition for Rulemaking—Carrier Practices and Tariff Rules Affecting Rate Applicability.
2. Proposed Rule to Permit Correction of Administrative or Clerical Errors in Service Contracts.

Portion Closed to the Public:

1. Proposed General Rate Increase of Five Percent in the Puerto Rico/Virgin Islands Trade.

CONTACT PERSON FOR MORE INFORMATION: Tony P. Kominoth, Assistant Secretary, (202) 523–5725.

[FR Doc. 88–13187 Filed 6–8–88; 10:34 am]
BILLING CODE 6730-01-M

Corrections

Federal Register
Vol. 53 No. 112
Friday, June 10, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1425

Cooperative Marketing Associations

Correction

In rule document 88-12256 beginning on page 19882 in the issue of Wednesday, June 1, 1988, make the following correction:

On page 19882, in the second column, in the first complete paragraph, in the last line, "1993" should read "1983".

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

Correction

In proposed rule document 88-12194 beginning on page 19923 in the issue of Wednesday, June 1, 1988, make the following corrections:

§ 1446.106 [Corrected]

1. On page 19924, in the first column, in § 1446.106(c), in the second line, insert subparagraph designator "(1)" after "*credit*".

2. On the same page, in the second column, in § 1446.106(c)(1), in the fourth line, "contaract" should read "contracted".

3. On the same page, in the same column, in § 1446.106(c)(1)(i)(A), in the fourth line, "disposed" should read "dispose".

BILLING CODE 1505-01-D

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Egypt

Correction

In notice document 88-11246 beginning on page 17968 in the issue of Thursday, May 19, 1988, make the following correction:

On page 17968, in the third column, in the table, under "Category", in the last line, "393" should read "339".

BILLING CODE 1505-01-D

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1501

Method for Identifying Toys and Other Articles Intended for Use by Children Under 3 Years of Age Which Present Choking, Aspiration, or Ingestion Hazards Because of Small Parts; Interpretation

Correction

In rule document 88-11690 beginning on page 19261 in the issue of Friday, May 27, 1988, make the following correction:

On page 19182, in the second column, in the eighth line, "May" should read "November".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225-88-2002]

Memorandum of Understanding Between the State Administration of Import and Export Commodity Inspection of the People's Republic of China and the Food and Drug Administration; Ceramicware for Food Use

Correction

In notice document 88-11074 beginning on page 17764 in the issue of Wednesday, May 18, 1988, make the following correction:

On page 17764, in the second column, under **FOR FURTHER INFORMATION CONTACT**, in the fifth and sixth lines, the telephone number should read, "301-443-1583."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-020-08-4212-12]

Realty Action: Exchange of Public Lands

Correction

In notice document 88-10590 appearing on page 16915 in the issue of Thursday, May 12, 1988, the subject heading is corrected to read as set forth above.

BILLING CODE 1505-01-D

Federal Register

Friday
June 10, 1988

Part II

Department of Agriculture

Cooperative State Research Service

7 CFR Part 3403

Small Business Innovation Research Program; Administrative Provisions; Final Rule

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

7 CFR Part 3403

Small Business Innovation Research Program; Administrative Provisions

AGENCY: Cooperative State Research Service; USDA.

ACTION: Final rule.

SUMMARY: This document establishes Part 3403 of Title 7, Subtitle B, Chapter XXXIV of the Code of Federal Regulations, for the purpose of administering the U.S. Department of Agriculture's Small Business Innovation Research (SBIR) program conducted under the authority of the Small Business Innovation Development Act of 1982, as amended (15 U.S.C. 638) and section 630 of the Act making appropriations for Agriculture, Rural Development, and Related Agencies' programs for fiscal year ending September 30, 1987, and for other purposes, as made applicable by section 101(a) of Pub. L. Number 99-591, 100 Stat. 3341.

The issuance of this rule establishes the procedures to be followed annually in the solicitation of research grant proposals, the evaluation of such proposals, and the award of competitive research grants under this program.

EFFECTIVE DATE: June 10, 1988.

FOR FURTHER INFORMATION CONTACT: Terry J. Pacovsky, Chief, Grants Administrative Management, Office of Grants and Program Systems, Cooperative State Research Service, Room 112, Justin Smith Morrill Building, 15th and Independence Avenue SW., Washington, DC. 20251-2200. (Telephone: (202) 475-5024.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this rule have been approved under OMB Document Nos. 0524-0022, 0524-0025, and 0524-0026.

Classification

This rule has been reviewed under Executive Order 12291, and it has been determined that it is not a major rule because it does not involve a substantial or major impact on the Nation's economy or on large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions. It will not have a significant economic impact on competitive employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, it will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-534 (5 U.S.C. 601).

Regulatory Analysis

Not required for this rulemaking.

Environmental Impact Statement

This regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.212, Small Business Innovation Research (SBIR Program). For the reasons set forth in the Final Rule-related Notice to 7 CFR Part 3015, Subpart V, 48 FR 29115, June 24, 1983, and pursuant to the Notice found at 52 FR 22831, June 16, 1987, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background and Purpose

This document establishes Part 3403 of Title 7, Subtitle B, Chapter XXXIV of the Code of Federal Regulations, for the purpose of administering the U.S. Department of Agriculture's Small Business Innovation Research (SBIR) program conducted under the authority of section 630 of the Act making appropriations for Agriculture, Rural Development, and Related Agencies' programs for fiscal year ending September 30, 1987, and for other purposes as made applicable by section 101(a) of Pub. L. Number 99-591, 100 Stat. 3341, and the Small Business Innovation Development Act of 1982, as amended (15 U.S.C. 638). This rule establishes and codifies the procedures to be followed in the solicitation of competitive small business innovation research proposals, the evaluation of such proposals, and the award of grants under this program.

On April 20, 1988, the Department published a Notice in the **Federal Register** (53 FR 13048) proposing the establishment of this regulation and inviting comments from interested individuals and organizations. Comments were requested by May 20, 1988. No comments were received.

List of Subjects in 7 CFR Part 3403

Grants programs—agriculture, Grant administration.

The Department therefore adds Part 3403 to Title 7, Subtitle B, Chapter XXXIV of the Code of Federal Regulations as follows:

PART 3403—SMALL BUSINESS INNOVATION RESEARCH GRANTS PROGRAM

Subpart A—General Information

Sec.

Subpart B—Program Description

Subpart C—Preparation and Submission of Proposals

Subpart D—Proposal Review and Evaluation

Subpart E—Supplementary Information

Authority: 5 U.S.C. 301.

Subpart A—General Information

§ 3403.1 Applicability of regulations.

(a) The regulations of this part apply to small business innovation research grants awarded under the general authority of section 630 of the Act making appropriations for Agriculture, Rural Development, and Related Agencies' programs for fiscal year ending September 30, 1987, and for other purposes, as made applicable by section 101(a) of Pub. L. Number 99-591, 100 Stat. 3341, and the provisions of the Small Business Innovation Development Act of 1982, as amended (15 U.S.C. 638). The Small Business Innovation Development Act of 1982, as amended, mandates that each Fedeal agency with an annual extramural budget for research or research and development in excess of $100 million participate in a Small Business Innovation Research

(SBIR) program by reserving a statutory percentage of its annual extramural budget for award to small business concerns for research or research and development in order to stimulate technological innovation, use small business to meet Federal research and development needs, increase private sector commercialization of innovations derived from Federal research and development, and foster and encourage minority and disadvantaged participation in technological innovation. The U.S. Department of Agriculture (USDA) will participate in this program through the issuance of competitive research grants which will be administered by the Office of Grants and Program Systems, Cooperative State Research Service (CSRS).

(b) The regulations of this part do not apply to research grants awarded by the Department of Agriculture under any other authority.

§ 3403.2 Definitions.

As used in this part:

(a) "*Ad hoc* reviewers" means experts or consultants, qualified by training and experience in particular scientific or technical fields to render expert advice on the scientific or technical merit of grant applications in those fields, who review on an individual basis one or several of the eligible proposals submitted to this program in their area of expertise and who submit to the Department written evaluations of such proposals.

(b) "Awarding official" means any officer or employee of the Department who has the authority to issue or modify research project grant instruments in behalf of the Department.

(c) "Budget period" means the interval of time into which the project period is divided for budgetary and reporting purposes.

(d) "Department" means the Department of Agriculture.

(e) "Funding agreement" is any contract, grant, or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government.

(f) "Grantee" means the small business concern designated in the grant award document as the responsible legal entity to whom a grant is awarded under this part.

(g) "Minority and disadvantaged small business" is a concern:

(1) Which is at least 51 percent owned by one or more minority and disadvantaged individuals or, in the case of any publicly owned business, one in which at least 51 percent of the voting stock is owned by one or more minority and disadvantaged individuals; and

(2) Whose management and daily business operations are controlled by one or more such individuals.

For purposes of this program, a minority and disadvantaged individual is defined as a member of any of the following groups: Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans.

(h) "Peer review group" means experts or consultants, qualified by training and experience in particular scientific or technical fields to give expert advice on the scientific and technical merit of grant applications in those fields, who assemble as a group to discuss and evaluate all of the eligible proposals submitted to this program in their area of expertise.

(i) "Principal investigator" means a single individual designated by the grantee in the grant application and approved by the Department who is responsible for the scientific and technical direction of the project.

(j) "Program solicitation" is a formal request for proposals whereby an agency notifies the small business community of its research or research and development needs and interests in selected areas and invites proposals from small business concerns in response to those needs.

(k) "Project" means the particular activity within the scope of one of the research topic areas identified in the annual solicitation of applications, which is supported by a grant award under this part.

(l) "Project period" means the total length of time that is approved by the Department for conducting the research project as outlined in an approved grant application.

(m) "Research or research and development (R&D)" means any activity which is:

(1) A systematic, intensive study directed toward greater knowledge or understanding of the subject studied;

(2) A systematic study directed specifically toward applying new knowledge to meet a recognized need; or

(3) A systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

(n) "Research project grant" means the award by the Department of funds to a grantee to assist in meeting the costs of conducting for the benefit of the public an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research topic area identified in the annual solicitation of applications.

(o) "Small business" means a concern which at the time of award of phase I and phase II funding agreements meets the following criteria:

(1) Is organized for profit, independently owned or operated, is not dominant in the field in which it is proposing, has its principal place of business located in the United States, has a number of employees not exceeding 500 (full-time, part-time, temporary, or other) in all affiliated concerns owned or controlled by a single parent concern, and meets the other regulatory requirements outlined in 13 CFR Part 121. Business concerns, other than licensed investment companies, or State development companies qualifying under the Small Business Investment Act of 1958, 15 U.S.C. 661, *et seq.*, are affiliates of one another when directly or indirectly one concern controls or has the power to control the other or third parties (or party) control or have the power to control both. Control can be exercised through common ownership, common management, and contractual relationships. The term "affiliates" is defined in greater detail in 13 CFR 121.3(a). The term "number of employees" is defined in 13 CFR 121.2(b). Business concerns include, but are not limited to, any individual, partnership, corporation, joint venture, association, or cooperative.

(2) Is at least 51 percent owned, or in the case of a publicly owned business at least 51 percent of its voting stock is owned, by United States citizens or lawfully admitted permanent resident aliens.

(3) Is the primary source of employment of the principal investigator of the proposed effort at the time of award and during the conduct of the proposed research. Primary employment means that more than one-half of the principal investigator's time is spent in the employ of the small business. Primary employment with the small business applicant precludes full-time employment with another organization.

(4) Is the primary performer of the proposed research effort. Because the program is intended to increase the use of small business firms in Federal research or R&D, the term "primary performer" means that a minimum of two-thirds of the research or analytical

work must be performed by the proposing organization under phase I grants. For phase II awards, a minimum of one-half of the research or analytical effort must be conducted by the proposing firm.

(p) "Subcontract" is any agreement, other than one involving an employer-employee relationship, entered into by a Federal Government funding agreement awardee calling for supplies or services required solely for the performance of the original funding agreement.

(q) "United States" means the several States, the territories and possessions of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

(r) "Women-owned small business" means a concern that is at least 51 percent owned by a woman or women who also control and operate it. "Control" as used in this context means exercising the power to make policy decisions. "Operate" as used in this context means being actively involved in the day-to-day management of the concern.

§ 3403.3 Eligibility requirements.

(a) Each organization submitting a proposal must qualify as a small business for research purposes, must be the primary employer of the principal investigator at the time of award and during the conduct of the actual research, and must be the primary performer of the research and development effort. In addition, the work must be performed by the small business concern in the United States.

(b) Joint ventures and limited partnerships are eligible to apply for and to receive research grants under this program provided that the entity created qualifies as a small business in accordance with section 2[3] of the Small Business Act (15 U.S.C. 632) and as defined in § 3403.2(o) of this part.

Subpart B—Program Description

§ 3403.4 Three-phase program.

The Small Business Innovation Research program will be carried out in three separate phases described below. The first two phases are designed to assist USDA in meeting its research and development objectives and will be supported with Federal funds. The purpose of the third phase is to pursue the commercial applications or objectives of the research carried out in phases I and II through the use of private, non-Federal funds.

(a) Phase I is the initial stage in which the scientific and technical merit and feasibility of an idea related to one of the research areas described in the program solicitation is evaluated, normally for a period not to exceed 6 months.

(b) Phase II is the principal research or research and development effort in which the results from Phase I are expanded upon and further pursued, normally for a period not to exceed 24 months. Only those small businesses previously receiving phase I awards are eligible to submit phase II proposals. For each phase I project funded the awardee may apply for a phase II award only once. Phase I awardees who for valid reasons cannot apply for phase II support in the next fiscal year funding cycle may apply for support not later than the second fiscal year funding cycle.

(c) Phase III is the pursuit of commercial objectives resulting from the Federally supported work carried out in phases I and II. This portion of the project is performed by the small business firm and privately funded by a non-Federal source through the use of a follow-on funding commitment. A follow-on funding commitment is an agreement between the small business firm and a provider of follow-on capital for a specified amount of funds to be made available to the small business for further development of their effort upon achieving certain mutually agreed upon technical objectives during phase II.

Subpart C—Preparation and Submission of Proposals

§ 3403.5 Requests for proposals.

(a) *Phase I.* A program solicitation requesting phase I proposals will be prepared each fiscal year in which funds are made available for this purpose. The solicitation will contain information sufficient to enable eligible applicants to prepare grant proposals and will include descriptions of specific research topic areas which the Department will support during the fiscal year involved, forms to be completed and submitted with proposals, and special requirements. A notice will be published in the **Federal Register** informing the public of the availability of the program solicitation.

(b) *Phase II.* For each fiscal year in which funds are made available for this purpose, the Department will send a letter requesting phase II proposals from the phase I grantees eligible to apply for phase II funding in that fiscal year. The letter will contain information sufficient to enable eligible applicants to prepare grant proposals and will include forms to be submitted with proposals as well as special requirements.

§ 3403.6 General content of proposals.

(a) The proposed research must be responsive to one of the USDA program interests stated in the research topic descriptions of the program solicitation.

(b) Proposals must cover only scientific research activities. A firm must not propose product development, technical assistance, demonstration projects, classified research, or patent applications. Literature surveys should be conducted prior to preparing proposals for submission and must not be proposed as a part of the SBIR phase I or phase II effort. Proposals principally for the development of proven concepts toward commercialization or for market research should not be submitted since such efforts are considered the responsibility of the private sector and therefore are not supported by USDA.

(c) A proposal must be limited to only one topic. The same proposal may not be submitted under more than one topic. However, an organization may submit separate proposals on the same topic. Where similar research is discussed under more than one topic, the proposer should choose that topic whose description appears most relevant to the proposer's research concept. Duplicate proposals will be returned to the applicant without review.

(d) Phase I applicants should submit a research proposal of no more than 25 pages, including cover page, budget, and all proposal-related enclosures or attachments. The text must be prepared on only one side of the page using standard 8½" x 11" white paper, with no type smaller than elite regardless of whether it is single or double spaced. In the interest of equity to all proposers, no additional attachments, appendixes, or references beyond the 25-page limitation will be considered in the proposal evaluation process, and proposals in excess of the 25-page limitation will not be considered for review or award. In addition, supplementary materials, revisions, and/or substitutions will not be accepted after the due date for proposals. For phase II applicants, this page limitation does not apply.

§ 3403.7 Proposal format for phase I applications.

(a) *Cover sheet.* Photocopy and complete Form CSRS–667 in the program solicitation. The original of the cover sheet must at a minimum contain the pen-and-ink signatures of the proposed principal investigator(s) and the authorized organizational official. A proposal which does not contain the signature of the authorized organizational official will not be considered a legal document and will be

returned to the proposing small business firm without review. All other copies of the proposal must also contain a cover sheet, but facsimile or photocopied signatures will be accepted. The title should be a brief (80-character maximum), clear, specific designation of the research proposed. It will be used to provide information to Congress and also will be used in issuing press releases. Therefore, it should not contain highly technical words. In addition, phrases such as "investigation of" or "research on" should not be used.

(b) *Project summary.* Photocopy and complete Form CSRS–668 in the program solicitation. The technical abstract should include a brief description of the problem or opportunity, project objectives, and a description of the effort. Anticipated results and potential commercial applications of the proposed research also should be summarized in the space provided. Keywords, to be provided in the last block on the page, should characterize the most important aspects of the project. The project summary of successful proposals may be published by USDA and, therefore, should not contain proprietary information.

(c) *Technical content.* The main body of the proposal should include:

(1) *Identification and significance of the problem or opportunity.* Clearly state the specific technical problem or opportunity addressed and its importance.

(2) *Background and rationale.* Indicate the overall background and technical approach to the problem or opportunity and the part that the proposed research plays in providing needed results.

(3) *Relationship with future research or research and development.* Discuss the significance of the phase I effort in providing a foundation for the phase II R&D effort. State the anticipated results of the approach if the project is successful (phases I and II). This should address: The technical, economic, social, and other benefits to the Nation and to users of the results such as the commercial sector, the Federal Government, or other researchers; the estimated total cost of the approach relative to benefits; and, if appropriate, any specific policy issues or decisions which might be affected by the results.

(4) *Phase I technical objectives.* State the specific objectives of the phase I research or research and development effort, including the technical questions it will try to answer to determine the feasibility of the proposed approach

(5) *Phase I work plan.* This work plan must provide an explicit, detailed description of the phase I research or research and development approach. The plan should indicate the tasks to be performed as well as how and where the work will be carried out. The phase I effort should attempt to determine the technical feasibility of the proposed concept. The work plan should be linked with the technical objectives of the research and the questions the effort is designed to answer. Therefore, it should flow logically from § 3403.7(c)(4) of this part. This section should constitute a substantial portion of the total proposal.

(6) *Related research or research and development.* Describe the significant research or research and development activities from relevant literature that are directly related to the proposed effort, including any conducted by the principal investigator or by the proposing firm, how it relates to the proposed effort, and any planned coordination with outside sources. The proposer must persuade reviewers that he or she is aware of related research in the selected subject.

(d) *Key personnel and bibliography.* Identify key personnel involved in the effort, including information on their directly related education and experience. For each key person, provide a chronological list of the most recent representative publications in the topic area during the preceding 5 years, including those in press. List the authors (in the same order as they appear on the paper), the full title, and the complete reference as these usually appear in journals. Where vitae are extensive, summaries that focus on most relevant experience or publications may be necessary to meet the proposal size limitation in phase I.

(e) *Facilities and equipment.* Describe the types, location, and availability of instrumentation and physical facilities necessary to carry out the work proposed. Items of equipment to be purchased must be fully justified under this section.

(f) *Consultants.* Involvement of university or other consultants in the planning and research stages of the project is permitted and may be particularly helpful to small firms which have not previously received Federal research awards. If such involvement is intended, it should be described in detail. Proposals should include letters from proposed consultants indicating willingness to serve.

(g) *Potential post application.* Briefly describe:

(1) Whether and by what means the proposed research appears to have potential commercial application; and

(2) Whether and by what means the proposed research appears to have potential use by the Federal Government.

(h) *Current and pending support.* If a proposal, substantially the same as the one being submitted, has been previously funded or is currently funded, pending, or about to be submitted to another Federal agency or to USDA in a separate action, the proposer must provide the following information:

(1) Name and address of the agency(s) to which a proposal was submitted, or will be submitted, or from which an award is expected or has been received.

(2) Date of actual or anticipated proposal submission or date of award, as appropriate.

(3) Title of proposal or award, identifying number assigned by the agency involved, and the date of program solicitation under which the proposal was submitted or the award was received.

(4) Applicable research topic area for each proposal submitted or award received.

(5) Title of research project.

(6) Name and title of principal investigator for each proposal submitted or award received.

USDA will not make awards that duplicate research funded (or to be funded) by other Federal agencies.

(i) *Cost breakdown on proposal budget.* Photocopy and complete Form CSRS–55 in the program solicitation only for the phase under which you are currently applying. (An applicant for phase I funding should not submit both phase I and II budgets.) Please note the following in completing the budget:

(1) *Salaries and wages.* Indicate the number and kind of personnel for whom salary support is sought. For key personnel, also indicate the number of work months of involvement to be supported with USDA funds (see blocks labeled "CSRS Funded Work Months").

(2) *Equipment.* Performing organizations are expected to have appropriate facilities, suitably furnished and equipped. However, items of equipment may be requested provided that they are specifically identified and adequately justified. Equipment is defined as an article of nonexpendable, tangible personal property having a useful life of more than 2 years and an acquisition cost of $500 or more per unit. Vesting of title to equipment purchased with funds provided under an SBIR funding agreement will be determined by USDA. Awardees should plan to lease expensive equipment.

(3) *Travel.* The inclusion of travel will be carefully reviewed with respect to need and appropriateness for the research proposed. Foreign travel may not be included in the phase I budget.

(4) *Subcontracting limits.* Subcontracting may not exceed one-third of the research or analytical effort during phase I. In addition, subcontractors must perform their portion of the work in the United States. If subcontracting costs are anticipated, they should be indicated in block I, "All Other Direct Costs," on the budget sheet. A breakdown of subcontractual cost is required. For proposals involving subcontractual or consulting arrangements, USDA strongly encourages the applicant to submit an agreement or letter of intent signed by the subcontractor or consulting firm's authorized organizational official.

(5) *Fee.* A reasonable fee is permitted under this program. All fees are subject to negotiation with USDA. If a fee is requested, the amount should be indicated in block I, "All Other Direct Costs," on the budget sheet.

(6) *Indirect costs.* If available, the current rate negotiated with the cognizant Federal negotiating agency should be used. If no rate has been negotiated, a reasonable dollar amount in lieu of indirect costs may be requested, which will be subject to approval by USDA. A proposer may elect not to charge indirect costs and, instead, use all grant funds for direct costs. If a negotiated rate is used, the percentage and base should be indicated in the space allotted under item K on the budget sheet. If indirect costs are not charged, the phrase "None requested" should be written in this space.

(7) *Cost-sharing.* Cost-sharing is permitted for proposals under this program; however, cost-sharing is not required nor will it be an evaluation factor in considering the competitive merit of proposals submitted.

(j) *Research involving special considerations.* (1) If the proposed research will involve either recombinant DNA molecules or human subjects at risk, the proposal must so indicate. In the event that the project is funded, the proposer may be required to have the research plan reviewed and approved by an appropriate "Institutional Review Board" prior to commencing actual substantive work. It is suggested that proposers contact local universities, colleges, or nonprofit research organizations which have established such reviewing mechanisms to have this service performed.

(2) Guidelines to be applied and observed when conducting such research are:

(i) *Recombinant DNA Molecules.* "Guidelines for Research Involving Recombinant DNA Molecules" issued by the National Institutes of Health. (See 51 FR 16958–16985 and any subsequent revisions.)

(ii) *Human Subjects at Risk.* Guidelines issued by the Department of Health and Human Services. (See 45 CFR Part 46.)

(k) *Proprietary information.* (1) If a proposal contains proprietary information that constitutes a trade secret, proprietary commercial or financial information, confidential personal information, or data affecting the national security, it will be treated in confidence to the extent permitted by law, provided the information is clearly marked by the proposer with the term "confidential proprietary information" and provided the following legend also appears in the designated area at the bottom of the proposal's cover sheet (Form CSRS–667).

> For any purpose other than to evaluate the proposal, this data shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed in whole or in part, provided that if a funding agreement is awarded to this proposer as a result of, or in connection with, the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the funding agreement. This restriction does not limit the Government's right to use information contained in the data if it is obtained from another source without restriction. The data subject to this restriction is contained in pages _____ of this proposal.

(2) USDA by law is required to make the final decision as to whether the information is required to be kept in confidence.

(3) The inclusion of proprietary information is discouraged unless it is necessary for the proper evaluation of the proposal. The proprietary information included should be limited, set off on a separate page, and keyed to the text by numbers. It should be confined to a few critical technical items which, if disclosed, could jeopardize the obtaining of foreign or domestic patents. Also, trade secrets, salaries, or other information which could jeopardize commercial competitiveness should be keyed and set off on separate page. Proposals or reports which set off any large amount of information may be found unacceptable by USDA.

(l) *Organizational management information.* Before the award of an SBIR funding agreement, USDA requires the submission of certain organizational management and financial information to assure the responsibility of the proposer. Form CSRS-666 ("Organizational Information") and Form CSRS-665 ("Assurance of Compliance with the Department of Agriculture Regulations Under Title VI of the Civil Rights Act of 1964, as amended") are used for this purpose and are contained in the program solicitation. This information is not required unless a project is recommended for funding, and then it is submitted on a one-time basis only.

§ 3403.8 Proposal format for phase II applications.

(a) *Cover sheet.* Follow instructions found in § 3403.7(a) of this part.

(b) *Project summary.* Follow instructions found in § 3403.7(b) of this part.

(c) *Phase I results.* A synopsis of the phase I research results should be included in the phase II application. This synopsis should contain a discussion of the overall background, phase I technical approach, and feasibility conclusions.

(d) *Proposal.* Since phase II is the principal research and development effort, proposals should be more comprehensive than those submitted under phase I. However, the outline contained in § 3403.7(c) of this part should be followed, tailoring the information requested to the phase II project.

(e) *Cost breakdown on proposal budget.* (1) For phase II, a detailed budget is required for each year of requested support. In addition, a summary budget is required detailing the requested support for the overall project period. Form CSRS–55, "Proposal Budget", is to be used for this purpose and may be photocopied as necessary.

(2) *Travel.* Foreign travel may be included as necessary in the phase II budget. Such a request will be reviewed with respect to need and appropriateness for the research proposed and therefore should be adequately justified in the proposal.

(3) *Subcontracting limits.* The instructions found in § 3403.7(i)(4) of this part apply to phase II proposals except that the subcontracting limit is changed from one-third to one-half of the research or analytical effort.

(f) *Organizational management information.* Each phase II awardee will be asked to submit an updated statement of financial condition.

(g) *Follow-on funding commitment.* If the proposer has obtained a contingent commitment for phase III follow-on funding, it should be forwarded with the phase II application.

§ 3403.9 Submission of proposals.

The program solicitation for phase I proposals and the letter requesting phase II proposals will provide the deadline date for submitting proposals.

the number of copies to be submitted, and the address where proposals should be mailed or delivered.

Subpart D—Proposal Review and Evaluation

§ 3403.10 Proposal review.

(a) All research grant applications will be acknowledged.

(b) Phase I and phase II proposals will be judged competitively in a two-stage process, based primarily upon scientific or technical merit. First, each proposal will be screened by USDA scientists to ensure that it is responsive to stated requirements contained in the program solicitation. Proposals found to be responsive will be technically evaluated by peer scientists knowledgeable in the appropriate scientific field using the criteria listed in § 3403.11 or § 3403.12 of this part, as appropriate. Proposals found to be nonresponsive will be returned to the proposing firm without review.

(c) Both internal and external peer reviewers may be used during the technical evaluation stage of this process. Selections will be made from among recognized specialists who are uniquely qualified by training and experience in their respective fields to render expert advice on the merit of proposals received. It is anticipated that such experts will include those located in universities, Government, and non-profit research organizations. If possible, USDA intends that peer review groups shall be balanced with minority and female representation and with an equitable age distribution.

(d) Technical reviewers will base their conclusions and recommendations on information contained in the phase I or phase II proposal. It cannot be assumed that reviewers are acquainted with any experiments referred to within a proposal, with key individuals, or with the firm itself. Therefore, the proposal should be self-contained and written with the care and thoroughness accorded papers for publication.

(e) Final decisions will be made by USDA based upon the ratings assigned by reviewers and consideration of other factors, including the potential commercial application, possible duplication of other research, any critical USDA requirements, program balance, and budget limitations. In addition, the follow-on funding commitment will be a consdieration for phase II proposals.

§ 3403.11 Phase I evaluation criteria.

USDA plans to select for award those proposals offering the best value to the Nations, with approximately equal consideration given to each of the following criteria except for item (a) which will receive twice the vlaue of any of the other items:

(a) The scientific/technical quality of the phase I research plan and its relevance to the stated objectives, with special emphasis on innovativeness and originality.

(b) Importance of the problem or opportunity and anticipated benefits of the proposed research, if successful.

(c) Adequacy of the phase I objectives to show incremental progress toward proving the feasibility of approach.

(d) Qualifications of the principal investigator(s), other key staff and consultants, and the probable adequacy of available or obtainable instrumentation and facilities.

§ 3403.12 Phase II evaluation criteria.

(a) A phase II proposal may be submitted only by a phase I awardee. The phase II proposal will be reviewed for overall merit based on the following criteria with each item receiving approximately equal weight except for paragraph (a)(1) of this section, which will receive twice the value of any of the other items:

(1) The scientific/technical quality of the proposed research, with special emphasis on innovativeness and originality.

(2) Degree to which phase I objectives were met (as indicated in phase I final report.)

(3) The technical, economic, and/or social importance of the problem or opportunity and anticipated benefits if phase II research is successful.

(4) The adequacy of the phase II objectives to meet the problem or opportunity.

(5) The qualifications of the principal investigator(s) and other key personnel to carry out the proposed work.

(6) Reasonableness of the budget requested for the work proposed.

(b) In the event that two or more phase II proposals are of approximately equal technical merit, the follow-on funding commitment for continued development in phase III will be an important consideration. The value of the commitment will depend upon the degree of commitment made by non-Federal investors, with the maximum value resulting from a signed agreement with reasonable terms for an amount at least equal to the funding requested from USDA in phase II.

§ 3403.13 Availability of information.

Information regarding the peer review process will be made available to the extent permitted under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and implementing Departmental and other Federal regulations. Implementing Departmental regulations are found at 7 CFR Part 1.

Subpart E—Supplementary Information

§ 3403.14 Terms and conditions of grant awards.

Within the limit of funds available for such purpose, the awarding official shall make research project grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this part. The beginning of the project period shall be no later than September 30 of the Federal fiscal year in which the project is approved for support. All funds granted under this part shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, the Federal Acquisition Regulation (48 CFR Part 31), and the Department's Uniform Federal Assistance Regulations (7 CFR Part 3015).

§ 3403.15 Notice of grant awards.

(a) The grant award document shall include, at a minimum, the following:

(1) Legal name and address of performing organization.

(2) Title of project.

(3) Name(s) and address(es) of Principal Investigator(s).

(4) Identifying grant number assigned by the Department.

(5) Project period, which specifies how long the Department intends to support the effort.

(6) Total amount of Federal financial assistance approved during the project period.

(7) Legal authorities under which the grant is awarded.

(8) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award.

(9) Other information or provisions deemed necessary by the Department to carry out its granting activities or to accomplish the purpose of a particular research project grant.

(b) The notice of grant award, in the form of a letter, will provide pertinent instructions and information to the grantee which are not included in the grant award document described above.

§ 3403.16 Use of funds; changes.

(a) *Delegation of fiscal responsibility.* The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(b) *Change in project plans.* (1) The permissible changes by the grantee, principal investigator(s), or other key project personnel in the approved research project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the principal investigator(s) are uncertain as to whether a change complies with this provision, the question must be referred to the Department for a final determination.

(2) Changes in approved goals, or objectives, shall be requested by the grantee and approved in writing by the Department prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(3) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the Department prior to effecting such changes.

(4) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the Department prior to effecting such transfers.

(c) *Changes in project period.* The project period may be extended by the Department without additional financial support for such additional period(s) as the Department determines may be necessary to complete or fulfill the purposes of an approved project. Such extension shall be conditioned upon prior request by the grantee and approval in writing by the Department.

(d) *Changes in approved budget.* Changes in an approved budget shall be requested by the grantee and approved in writing by the Department prior to instituting such changes if the revision will:

(1) Involve transfers of amounts budgeted for indirect costs to absorb increase in direct costs;

(2) Involve transfers of amounts budgeted for direct costs to accommodate changes in indirect cost rates negotiated during a budget period and not approved when a grant was awarded;

(3) Result in a need or claim for the award of additional funds; or

(4) Involve transfers or expenditures of amounts requiring prior approval as set forth in the Departmental regulations or in the grant award.

§ 3403.17 Other Federal statutes and regulations that apply.

Several other Federal statutes and/or regulations apply to grant proposals considered for review or to research project grants awarded under this part. These include but are not limited to:

7 CFR Part 1.1—USDA implementation of Freedom of Information Act

7 CFR Part 15, Subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., Circular Nos. A–102, A–110, A–87, A–21, and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

48 CFR Part 31—Contract Cost Principles and Procedures of the Federal Acquisition Regulation

29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and CFR Part 15B (USDA implementation of statute), prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 et seq.—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR Part 401).

§ 3403.18 Other conditions.

The Department may, with respect to any research project grant, impose additional conditions prior to or at the time of any award when, in the Department's judgment, such conditions are necessary to assure or protect advancement of the approved project, the interests of the public, or the conservation of grant funds.

Done at Washington, DC, this 7th day of June, 1988.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

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federal register

Friday
June 10, 1988

Part III

The President

Executive Order 12642—Designation of the Secretary of Defense as the Presidential Designee Under Title I of the Uniformed and Overseas Citizens Absentee Voting Act

Federal Register
Vol. 53, No. 112
Friday, June 10, 1988

Presidential Documents

Title 3—

The President

Executive Order 12642 of June 8, 1988

Designation of the Secretary of Defense as the Presidential Designee Under Title I of the Uniformed and Overseas Citizens Absentee Voting Act

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (Public Law 99–410) ("the Act"), it is hereby ordered as follows:

Section 1. The Secretary of Defense is hereby designated as the "Presidential designee" under Title I of the Act.

Sec. 2. In order to effectuate the purposes of the Act, the Secretary of Defense is hereby authorized to delegate any or all of the functions, responsibilities, powers, authority, or discretion devolving upon him in consequence of this Order to any person or persons within the Department of Defense.

Ronald Reagan

THE WHITE HOUSE,
June 8, 1988.

[FR Doc. 88–13352
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Reader Aids

Federal Register

Vol. 53, No. 112

Friday, June 10, 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

19879-20088.....1
20089-20274.....2
20275-20594.....3
20595-20806.....6
20807-21404.....7
21405-21618.....8
21619-21790.....9
21791-21976.....10

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.

3 CFR

Administrative Orders:
Presidential Determinations:
No. 88-15 of May 20, 1988.....20595
No. 88-16 of May 20, 1988.....21405
No. 88-18 of June 3, 1988.....21407
Executive Orders:
12641.....21975

5 CFR

307.....20807
316.....20807
752.....21619

7 CFR

28.....20089
58.....20275
250.....20416, 20597
405.....20278
440.....20279
713.....20280
770.....20280
795.....21409
800.....21791
910.....20599, 21792
911.....21624
915.....20599, 21624
918.....21624
923.....21624
944.....20599
946.....21793
982.....21624
987.....19879
989.....19880
998.....20290
1033.....21626
1046.....21626
1413.....20280
1421.....20280
1425.....19882, 21964
1470.....20280
2003.....20090
3403.....21966
Proposed Rules:
68.....20636
401.....20331-20333, 21455
905.....20121
907.....21651
908.....21651
928.....20121
998.....21666
1001.....21825
1002.....21825
1004.....21825
1230.....21456, 21836
1446.....19923, 21964
1930.....21460
1944.....19924

8 CFR

274a.....20086

9 CFR

92.....2030, 21794
331.....20099
381.....20099

10 CFR

35.....21627
50.....20603
625.....20508
Proposed Rules:
2.....20335
50.....19930, 20856
71.....21550

12 CFR

4.....20611
208.....20808
261.....20812
563.....20611
606.....19884
Proposed Rules:
225.....21462
575.....21474
576.....21474
577.....21474
584.....21838
611.....20637
612.....20637
618.....20637, 20647
620.....20637
704.....20122

13 CFR

121.....21547
Proposed Rules:
121.....20857
124.....21482

14 CFR

39.....20101, 20825-20830, 21411, 21412, 21628, 21630, 21809
71.....20102, 20414, 20832, 20833, 21396, 21811
91.....20103
95.....20264
97.....21811
135.....20264
Proposed Rules:
Ch. I.....20124
21.....20860
23.....20860
39.....20414, 21489, 21669
71.....20864
73.....20125
75.....20126

15 CFR

390.....20833

16 CFR

13.....20834

444.....19893
500.....20834
1501.....21964
Proposed Rules:
13.....19930, 20127, 20131
1500.....20865
1501.....20865

17 CFR
Proposed Rules:
1.....21490
210.....21670
240.....21670
249.....21670
270.....21670
274.....21670

18 CFR
271.....21415
284.....20835
Proposed Rules:
4.....21824
16.....21824
141.....21853
260.....21853
357.....21853

19 CFR
132.....19896
134.....20836
Proposed Rules:
134.....20869
177.....19933

20 CFR
Proposed Rules:
205.....20136
404.....21685, 21687
416.....21685

21 CFR
172.....20837–20842, 21631
184.....20936
186.....20936
193.....20307
201.....21633
510.....20842
522.....20842
548.....20842
558.....20842
561.....20307
862.....21447
1301.....21813
Proposed Rules:
175.....20335
176.....20335
177.....20335
178.....20335
1010.....20137
1308.....21450

22 CFR
Proposed Rules:
20.....21854

23 CFR
650.....21637

24 CFR
8.....20216
35.....20790
200.....20790
201.....19897
203.....19897
234.....19897
510.....20790
570.....20790
882.....20790
885.....19899
886.....20790
941.....20790
965.....20790
968.....20790
Proposed Rules:
208.....20649
596.....20556

25 CFR
Proposed Rules:
61.....20335

26 CFR
1.....20308, 20612–20614, 20718
602.....20308
Proposed Rules:
1.....20337, 20650, 20651, 20719, 21688

28 CFR
Proposed Rules:
31.....21770

29 CFR
Proposed Rules:
1910.....20960, 21694

30 CFR
701.....21764
800.....21764
816.....21764
817.....21764
904.....19903, 21450
Proposed Rules:
916.....21494
918.....20338
936.....19934
944.....20338

31 CFR
565.....20566

32 CFR
114.....20843
285.....19905
Proposed Rules:
199.....20576–20592

33 CFR
3.....21814
100.....19906, 20319, 21815
110.....20319, 20617
117.....20320
160.....21814
165.....21815
Proposed Rules:
110.....20339, 20652
162.....20339
165.....20339, 20653
173.....21856
174.....21856

34 CFR
562.....21400

36 CFR
Proposed Rules:
327.....21495

37 CFR
Proposed Rules:
10.....20871
201.....20347
202.....21817

38 CFR
13.....20618
Proposed Rules:
19.....20653

39 CFR
111.....21820

40 CFR
52.....20321, 21638
147.....21450
180.....19907, 20322, 21451, 21452
232.....20764
233.....20764
261.....20103, 21639
271.....20845
761.....21641
796.....21641
Proposed Rules:
52.....20347
60.....20139
80.....21500
81.....20139, 20722
82.....20718
86.....21500
180.....20872
228.....19934
261.....20140, 20350
264.....20738
265.....20738
270.....20738
471.....21774
600.....21500
763.....19945

41 CFR
101–38.....21821
Proposed Rules:
101–41.....19946

42 CFR
400.....21762
431.....20448
435.....20448
440.....20448
442.....20448
483.....20448
Proposed Rules:
417.....21696
435.....19950
440.....19950
441.....19950

43 CFR
Public Land Order:
6679.....20846
Proposed Rules:
11.....20143
426.....21857

44 CFR
64.....19907, 19909, 20846
Proposed Rules:
67.....21705

45 CFR
302.....21642
303.....21642
Proposed Rules:
670.....19964

46 CFR
10.....21822
15.....21822
69.....20619
77.....20623
96.....20623
195.....20623
586.....20847
Proposed Rules:
10.....20654
15.....20654

47 CFR
73.....19912, 19913, 20624–20626, 21645, 21646, 21762
94.....21453
97.....21822
Proposed Rules:
1.....20146
25.....20146
73.....19964–19966, 20658, 20659
74.....21861

48 CFR
204.....20626
205.....20626
206.....20626
209.....20631
219.....20626
226.....20626
227.....20632
235.....20626
252.....20626, 20631, 20632
519.....21823
970.....21646
Proposed Rules:
215.....19966, 21862
252.....19966

49 CFR
30.....19914
566.....20119
1035.....20853
1104.....20853
1115.....20853
Proposed Rules:
383.....20147
391.....20147
392.....20147
571.....20659
604.....20660
1002.....19969

50 CFR
23.....19919
253.....20323
301.....20327
652.....20854
661.....20119
663.....20634
672.....19921, 21649
675.....21454
Proposed Rules:
Ch. VI.....20661
20.....20874
600.....21863
601.....21863
604.....21863
605.....21863
644.....21501

661.....19971

LIST OF PUBLIC LAWS

Last List June 9, 1988

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 2878/Pub. L. 100-326

To designate certain national forest system lands in the States of Virginia and West Virginia as wilderness areas. (June 7, 1988; 102 Stat. 584; 2 pages) Price: $1.00

H.R. 3987/Pub. L. 100-327

To designate the United States Post Office Building located at 500 West Chestnut Expressway in Springfield, Missouri, as the "Gene Taylor Post Office Building." (June 7, 1988; 102 Stat. 586; 1 page) Price: $1.00

H.J. Res. 530/Pub. L. 100-328

Designating May 1988 as "Take Pride in America Month." (June 7, 1988; 102 Stat. 587; 1 page) Price: $1.00

S. 1963/Pub. L. 100-329

To amend the Merchant Marine Act, 1920, and for other purposes. (June 7, 1988; 102 Stat. 588; 3 pages) Price: $1.00

S. 1989/Pub. L. 100-330

South Pacific Tuna Act of 1988 (June 7, 1988; 102 Stat. 591; 11 pages) Price: $1.00