7-6-88
Vol. 53 No. 129
Pages 25301-25480

Federal Register

Wednesday
July 6, 1988

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

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Presidential Documents

Title 3—

The President

Proclamation 5838 of July 1, 1988

National Literacy Day, 1988

By the President of the United States of America

A Proclamation

We know that America offers freedom and opportunity to every citizen; yet we know too that the burden of illiteracy keeps some of us from taking full advantage of all our country has to offer and from contributing all we can. Fortunately, dedicated citizens have been working hard to help their neighbors learn to read and write; and in recent years the Adult Literacy Initiative has encouraged many people to volunteer in this effort.

We can be proud of the volunteers and the public-private partners who are carrying America's promise to their fellow citizens. National Literacy Day gives us a special chance to let more people know of the help and hope that are available—that they can truly learn to read and write. On this day and throughout the year, let us extend a helping hand to our fellow citizens and offer them the priceless opportunity of literacy and the world of potential it creates.

The Congress, by Senate Joint Resolution 304, has designated July 2, 1988, as "National Literacy Day" and authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim July 2, 1988, as National Literacy Day. I invite the Governors of the several States, local officials, and all Americans to observe this day with appropriate programs, ceremonies, and activities to increase awareness about illiteracy and to encourage participation in the fight for literacy and learning in our land.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of July, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 88-15284
Filed 7-1-88; 4:53 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 220, and 226

Revision of Infant Meal Pattern for Child Nutrition Programs

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: On December 31, 1986, the Department proposed to amend regulations governing the infant meal pattern for the National School Lunch Program, the School Breakfast Program, and the Child Care Food Program. This rule provides a standard infant meal pattern which will be uniformly applicable to all meal service Child Nutrition Program, and is in response to requests for consistency due to the potential for confusion in agencies which administer more than one meal service Child Nutrition Program. This rule is intended to establish consistency in the infant meal pattern requirements and reflects the most recent information regarding infant feeding practices.

EFFECTIVE DATE: September 6, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia N. Daniels, Branch Chief, Nutrition Science and Education Branch, Nutrition and Technical Services Division, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756–3554.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under Executive Order 12291 and has been classified nonmajor because it does not meet any of the three criteria of the Executive Order. It will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions, and will not have a significant impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete with foreign based enterprises in domestic or export markets. This rule provides greater flexibility to schools and institutions participating in the Child Nutrition Programs, rather than imposing more restrictive requirements upon them.

These programs are listed in the Catalog of Federal Domestic Assistance under Numbers 10.553, 10.555, and 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (Cite 7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985). The rule has also been reviewed with regard to the provisions of Pub. L. 96–354. Anna Kondratas, Administrator of the Food and Nutrition Service, has certified that this final rule will not have a significant economic impact on a substantial number of small entities.

This rule does not contain reporting and recordkeeping requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act.

Background

The requirements for the infant meal pattern have differed among the meal service Child Nutrition Programs administered by the Food and Nutrition Service. These differences can be attributed to the fact that the meal patterns were developed and issued at different times. There have been requests to establish consistency in the infant meal pattern due to the potential for confusion in agencies which administer more than one meal service Child Nutrition Program. Also, same-aged infants in the National School Lunch Program, School Breakfast Program, and Child Care Food Program were being offered different meal patterns. In addition, there had been requests from child care providers, parents, and health care providers to update the infant meal pattern requirements to reflect currently recommended infant feeding practices. New information on infant nutrition was available which had not been incorporated into the infant meal pattern requirements.

In an effort to provide a standard infant meal pattern that would be uniformly applicable to all meal service Child Nutrition Programs and that would incorporate the advice of leading authorities on infant nutrition, the Department published a proposed rule on December 31, 1986 (51 FR 47245). The proposed rule addressed changes in the infant meal pattern requirements under five categories: (1) Age groupings, (2) type of milk, (3) introduction of solid foods, (4) use of juice, and (5) type of meat alternates. The proposed rule also solicited comments on allowing a fruit or vegetable in the Child Care Food Program's supplemental meal pattern, for infants 6 through 12 months of age.

The Summer Food Service Program regulations (7 CFR Part 225) require that the infant meal pattern for that program be the same as the Child Care Food Program infant meal pattern. Therefore, the proposed rule was applicable to the Summer Food Service Program.

The Department provided a 60-day comment period which ended on March 2, 1987. During that comment period 68 comments were received from a variety of sources including State and local agency staff, advocacy groups, professional organizations, infant formula companies, USDA staff, and the general public. The Department would like to thank all who responded to the proposed rule.

In addition to publishing this final rule the Department will be issuing guidance material to help State and local cooperators interpret and implement the revisions in the infant meal pattern requirements. The guidance material is further described in the preamble.

Comment Analysis

The 68 comments received during the 60-day comment period were carefully reviewed and considered in formulating the final rule. In general, the comments were very favorable toward the proposed revisions in the infant meal pattern requirements. Commenters were especially supportive of the Department's intentions to provide an up-to-date meal pattern from both a nutritional and developmental perspective. Commenters approved of the meal pattern responding to infants' individual needs and showing

consistency among the meal service Child Nutrition Programs.

Commenters addressed all proposed provisions in the proposed rule in addition to suggesting changes in the meal pattern requirements which were not considered in the proposed rule.

These comments are all summarized below under the following headings: (1) Age Groupings, (2) Type of Milk, (3) Introduction of Solid Foods, (4) Use of Juice, (5) Use of Meat and Meat Alternates, and (6) Child Care Food Program Supplemental Meal Pattern.

Commenters also recommended making technical and editorial changes, and requested clarification. Although all of these comments are not specifically discussed, all were considered and some of the recommendations and requests for clarification are incorporated in the final rule.

1. Age Groupings

Change in Terminology: The Department proposed to reword the interval "month *up to* month" to read "month *through* month" to avoid confusion and provide for a clearer delineation of age groups by month. Of the 19 commenters who responded to this provision, 18 approved of the change in wording and one opposed it. The one opposed commenter felt the wording should be consistent with that used for the older child which uses "year *up to* year". However, guidance material for the older child has been revised to use the wording "year *through* year."

The final rule is consistent with the most recent material developed for Child Nutrition Programs and reflects the proposed provision. In addition, in response to requests by commenters, the final rule has been revised to reflect this change in terminology in the chart as well as in the written text.

Change in Breakdown of Age Groupings: The proposed rule maintained three age groups to allow for both the changing nutritional needs of infants during the first year of life as well as the variation in infants' growth rates, but modified the breakdown by month to better facilitate the introduction of solid foods into the diets of infants. Twenty-nine commenters responded to this proposed change. All felt a change in the meal pattern was necessary to allow for the flexibility in introducing solid foods.

Seventeen commenters concurred with the proposed provision. Twelve commenters did not agree with the proposed change because it would not allow a gradual introduction of solid foods to infants just beginning to eat solids at 6 months of age. These commenters explained the proposed change in age groupings merely delayed the requirement for solid foods to 6 months of age but it did not provide for a gradual introduction of solids. In addition, commenters believed 6 months of age was too early for an infant to be consuming the required amounts of food, even those infants who began solids at 4 months of age.

Three commenters suggested extending the middle age group, when solids are optional, through 6 months and eight commenters suggested extending it through 7 months. This would allow providers and parents flexibility in introducing foods at a rate appropriate for infants in various stages of growth and development. By extending this transitional period, a 6 month old infant who is being started on solids could be introduced to new foods slowly, as recommended by leading authorities in infant nutrition, instead of being required to eat food from all food groups as stated in the proposed rule. Such a revision would also allow a 6 month old infant who had begin to eat solids at 4 months of age to eat a variety of foods at 6 months of age.

The Department acknowledges that although the proposed change in age groupings solved one problem by providing flexibility in when solids are introduced to infants, it did not allow for the gradual introduction of solid foods. Leading authorities in infant nutrition recommend that new foods be introduced slowly. For example, the American Academy of Pediatrics recommends that solid foods be started one at a time at weekly intervals. Therefore, to allow for the gradual introduction of solid foods the Department has decided to extend the middle age group through 7 months and reinstate the age groupings in the previous final regulations: Birth through 3 months, 4 through 7 months, and 8 through 11 months (to the first birthday).

One commenter pointed out that an infant's oral-motor status changes each month from 6 months onward and the meal pattern should be broken out each month in the 6 through 11 month period. The final rule does not provide a breakdown by month but guidance material will specify the quantity, texture and type of food appropriate for each developmental age.

Several commenters questioned the inconsistency in the proposed rule of the wordings "through 11 months" and "to 1 year." Although they mean the same thing and could be used interchangeably, the final rule uses only the wording "through 11 months" to avoid confusion.

2. Type of Milk

Whole Milk: Thirty-two commenters responded to the provision to allow whole milk in place of iron-fortified infant formula at 6 months of age, instead of at 8 months, as long as infants are consuming one-third of their calories as a balanced mixture of cereal, fruits, vegetables, and other foods, and do not have medical conditions such as anemia, gastrointestinal malfunctions, or allergies. Four commenters were in favor of this provision and 28 were opposed. This overwhelming disapproval was due to several reasons.

Fifteen commenters opposed the provision because it would be too difficult to determine if infants were consuming one-third of their calories from a variety of foods and if an infant did not have the medical conditions that contraindicate the use of whole milk. Others opposed the provision because they claimed infants do not consume a varied enough diet at 6 months of age to account for the nutrients that would be lost by discontinuing infant formula or breast milk. Still others were concerned that infants would not be receiving adequate amounts of iron without the use of iron-fortified infant formula. Also, several commenters indicated that one-third of infants' calories equaled too much food for most infants and this requirement could encourage care-givers to force feed the infants. In addition, other commenters pointed out that recent research has shown iron-fortified dry infant cereal, the major source of iron other than formula in an infant's diet, may not be as good a source of iron as was previously thought. They explained that iron-fortified infant formula would therefore be a very important source of iron in an infant's diet.

Other objections cited to allowing the option of whole milk at 6 months of age included: (1) The need to periodically assess an infant's iron status; (2) the inconsistency with the Special Supplemental Food Program for Women, Infants, and Children (WIC), which strongly encourages the use of iron-fortified infant formula for the entire first year but allows State agencies to permit whole cow's milk at 6 months of age on a case-by-case basis under certain conditions; (3) the fear that providers would use milk rather than infant formula due to the cost and convenience, and not base their decision on the infant's development and diet; (4) the problem with milk allergies; and (5) the difficulty in enforcing such a meal pattern.

Of those opposed to the provision, six commenters believed whole milk should not be allowed until 8 months of age and 16 commenters believed it should not be allowed until 1 year of age. Many commenters recommended that whole milk be allowed in the infant meal pattern only as a dietary substitute which would require a special diet statement from a recognized medical authority for its use.

The Department acknowledges the objections to allowing whole milk as an option at 6 months of age. In response to these concerns, the Department has revised the proposed provision. The final rule recommends that either breast milk or iron-fortified infant formula be served for the entire first year but allows whole milk as an option beginning at 8 months of age as long as infants are consuming one-third of their calories as a balanced mixture of cereal, fruits, vegetables, and other foods in order to assure adequate sources of both iron and vitamin C. Allowing the option of whole milk maintains the flexibility in the meal pattern. In delaying the option of whole milk until 8 months of age, however, more infants may be eating the necessary variety of solid foods and may be ready for the introduction of whole milk.

This policy is compatible with that of the Special Supplemental Food Program for Women, Infants, and Children (WIC). As in WIC the infant meal pattern requirements recommend that either breast milk or iron-fortified infant formula be served for the entire first year but allow whole milk as an option with the specified condition.

This policy is also consistent with that of the American Academy of Pediatrics. The American Academy of Pediatrics recommends that infants be consuming one-third of their calories as supplemental foods consisting of a balanced mixture of cereal, vegetables, fruits and other foods, in order to assure adequate sources of both iron and vitamin C, before being introduced to whole milk.

The Department would like to point out that the condition for serving whole milk, that infants be consuming one-third of their calories as a balanced mixture of cereal, vegetables, fruits and other foods, was included in the proposed rule preamble but was mistakenly omitted from the meal pattern requirements of the regulatory text. It is clear from the commenters' responses to the proposed rule, however, that this condition was understood to be part of the meal pattern requirements. Given that there was the opportunity for public comment and the desire to be consistent with the recommendations of the American Academy of Pediatrics, the Department includes the condition for serving whole milk in the final rule.

The Department would also like to point out that the second condition for serving whole milk specified in the proposed rule preamble, that infants do not have medical conditions such as anemia, gastrointestinal malfunction, or allergies, is not included in the final rule. Commenters were generally opposed to this condition due to the difficulty in trying to enforce such a requirement, and the Department agrees with the commenters' concerns.

As stated in the proposed rule, the Department will issue guidance material to assist the provider in determining when infants are consuming one-third of their calories as solid foods. Because iron-fortified infant formula is a good source of iron and vitamin C, and whole milk is not, the guidance will identify dietary sources of iron and vitamin C which should be provided to infants when they receive whole milk. The guidance will also give instructions on how to gradually change from breast milk or formula to whole milk as the consumption of solid food increases.

The Department is aware of the recent research which raises questions about iron-fortified dry infant cereal as a good source of iron. The Department is following this issue and consulting with the professional community concerning changes in infant feeding practices. As changes are made, the Department will consider issuing a proposal to further revise the infant meal pattern requirements, such as the requirement for whole milk.

Low-Iron Formula: Three commenters requested that low-iron formula be allowed in the infant meal pattern. The final rule does not allow low-iron formula in the infant meal pattern. Low-iron formula may be served only as a dietary substitute when prescribed by a medical doctor or a recognized medical authority as defined by the State agency.

Reduced-Fat Milk: Five commenters agreed with the provision to not allow reduced-fat milk, either skim or 2 percent fat, in the infant meal pattern and one commenter disagreed because she claimed many physicians recommend 2 percent fat milk for infants. The final rule does not allow reduced-fat milk in the infant meal pattern. It may be served only as a dietary substitute which requires a special diet statement from a medical doctor or a recognized medical authority as defined by the State agency. As stated in the proposed rule reduced-fat milk could result in a low level of essential fatty acids due to the low fat content, and in an increased renal solute load because of the higher protein and sodium levels.

Breast Milk: The proposed rule included a provision for the reimbursement of meals which contain breast milk in place of infant formula for infants 4 months of age and older when at least one other required meal component is supplied by the school or child care facility. Of the 10 comments received concerning breast milk, eight were in favor of reimbursing meals containing breast milk and three of those were in favor of reimbursing for meals even when breast milk is served by itself. One commenter in favor believed the proposed reimbursement policy would encourage more parents and providers to use the Child Care Food Program. The two commenters opposed to the provision believed that only foods purchased should be reimbursed and that all meal components should be served in order to be reimbursable.

The final rule reflects the proposed provision. A meal in which breast milk is substituted for infant formula may be claimed for reimbursement when an infant is 4 months of age or older and when the other required meal component or components are supplied by the school or child care facility. This is consistent with current policy which allows the reimbursement for meals served with a certified substitute food as long as all other components of such meals are served.

Several commenters questioned if the provision included breast milk that was purchased by the provider or if it included having the provider breastfeed the infant. The final rule specifies that the mother must provide the breast milk for her infant.

3. Introduction of Solid Foods

Flexibility in Introduction: Thirty-five commenters addressed the proposed provision to allow flexibility in introducing solid foods. As proposed, solid foods would be optional for infants 4 through 5 months of age and should be introduced only if the infant is developmentally ready.

Of the 35 comments received, all either supported or conditionally supported the proposal. Although all commenters were in favor of providing more flexibility in when solids are introduced, several expressed an interest in also allowing for a gradual introduction to solid foods. As noted above under "Age Groupings: Change in Breakdown of Age Groupings," the proposed rule did not allow solids to be

introduced slowly to an infant who was beginning to eat solids at 6 months of age.

The decision to reinstate the age groupings in the previous final rule responds to the Department's desire to provide for the gradual introduction to solid foods in addition to giving flexibility in when solids are first introduced. With a longer transition period in the middle age grouping, solids can be introduced to infants one at a time at weekly intervals. The final rule has been revised to allow that solid foods be optional for infants 4 through 7 months of age. An infant would not be required to eat solid foods from most food groups until 8 months of age.

Some commenters questioned the provision to allow the provider to make the decision to introduce solids. Other commenters expressed the need for guidance material to help providers know when to introduce solids to infants. The final rule encourages the school or child care facility to consult with the infant's parent whenever possible in making the decision to introduce solid foods. The Department will also issue guidance material to assist the provider in knowing when to introduce solid foods in the cases where the parent does not make the decision.

Two commenters requested guidelines for introducing solids to the low birthweight or developmentally delayed infant. This will be included in the guidance material. Another commenter requested that the regulations state that solid foods be introduced by spoon and not in a bottle. This subject will also be covered in guidance material.

Meat and Meat Alternates Substitute for Infant Cereal: Four commenters were in agreement with the provision to allow meat and its alternates to substitute for infant cereal in the 6 through 11 month age group at lunch and supper and five commenters were opposed. Those opposed to the provision were most concerned with the iron content of the diet if low-iron meat alternates were selected in place of iron-fortified dry infant cereal.

Two commenters suggested substituting iron-fortified infant foods for iron-fortified dry infant cereal since the food industry is currently working on the iron fortification of foods other than cereal. However, until the foods are on the market the Department cannot provide guidelines for their use and cannot include them in the meal pattern.

The final rule reflects the proposed provision to allow meat and meat alternates to substitute for infant cereal. Meat and meat alternates are optional in the 8 through 11 month age group at lunch and supper which allows for the gradual introduction to new solid foods.

The Department acknowledges the importance of a good iron source in the infant's diet but the substitution of meat and meat alternates for iron-fortified dry infant cereal will not necessarily decrease the iron content of the infant's diet. As noted above under "Type of Milk: Whole Milk" recent research has raised questions concerning iron-fortified dry infant cereal as a good source of iron. The Department does recommend the use of either breast milk or iron-fortified infant formula for the entire first year to assure the proper intake of iron. The Department will also provide information on high-iron meats and meat alternates in the guidance material.

4. Use of Fruit Juice

Fruit Juices at 6 Months: Seventeen commenters addressed the provision to allow juice at 6 months of age, instead of at 4 months in the current Child Care Food Program and at 8 months in the current National School Lunch and School Breakfast Programs. Fifteen commenters were in agreement with the provision and two commenters were opposed. One opposed to the provision believed that infants might not be ready to drink from a cup at 6 months of age and would therefore be consuming juice from a bottle at the same time they are teething which could lead to baby bottle tooth decay, also called nursing bottle caries. The other commenter opposed to the provision recommended that juice be optional at 6 months of age since not all 6 month old infants have been introduced to juice. Several commenters suggested allowing a fruit instead of juice to meet the vitamin C requirement.

Fruit juice is included as an optional item beginning at 8 months of age in the final rule. This decision was affected by the change in the breakdown of age groupings in the final rule. The Department chose 8 months, rather than 4 months, as the time to introduce juice, since developmentally more infants would be drinking from a cup at that time. As discussed below under "Fruit Juice with Whole Milk", fruit juice is no longer required at meals when whole milk is provided, and is therefore only included in the infant meal pattern as an optional item in the supplement for the Child Care Food Program.

Several commenters questioned whether juice could be served to infants before it is included in the meal pattern. As with all foods, the final rule allows the use of additional foods. However, guidance material will discuss the proper introduction of foods to infants and the use of additional foods.

Comments were also received on the recommendation to offer juice from a cup. Ten commenters were in favor of the recommendation and two were opposed. One opposed to the recommendation claimed that it may be unrealistic to use cups in a child care setting, and that the recommendation should be deleted from the regulation and included in guidance material. The other commenter opposed to the recommendation to serve juice from a cup claimed that a cool juice bottle is pleasing to infants when they are teething to sooth their gums. In an effort to encourage behaviors that may prevent baby bottle tooth decay the recommendation to serve juice from a cup is include, in the final rule as proposed.

Fruit Juice with Whole Milk: The Department proposed to require fruit juice at meals, from 6 months through 11 months of age, when whole milk is provided. Nine commenters were in favor of this provision and 14 commenters were opposed. Those in favor felt a source of vitamin C was necessary when providing whole milk since whole milk is a poor source of vitamin C. Several commenters felt the regulations should specify a high vitamin C juice.

Those opposed to the provision felt that the total amount of required fluid was excessive at meals which may discourage consumption of the solid foods. Many suggested allowing a fruit or vegetable, high in vitamin C, as an alternate for the juice. One commenter pointed out that the required amount of fruit juice could lead to diarrhea. Several commenters were opposed to the requirement for full-strength juice, claiming that some physicians require diluting juice.

Due to the concern that the requirement at meals for fruit juice in addition to milk could discourage the consumption of solids, the final rule does not require fruit juice at meals when whole milk is provided. Fruit juice is included in the infant meal pattern only as an optional item in the supplement for the Child Care Food Program in the 8 through 11 month age group. Guidance material will include a list of foods high in vitamin C that should be included when whole milk is provided. Providers who wish to dilute the juice will be instructed in guidance material to use at least the minimum required amount and then to dilute with an equal amount of water.

5. Use of Meat and Meat Alternates

Meat or meat alternates at 6 months of age: Of the 13 commenters who

responded to the provision, 11 commenters were in agreement with delaying the requirement for meat or meat alternates from 4 months until 6 months and two commenters believed the requirement should be delayed further to 8 months or even to 1 year. One of the commenters interested in delaying the requirement further believed the consumption of meat and meat alternates at 6 months of age would place a strain on the infant's kidneys.

Due to the Department's desire to introduce solids gradually to infants, the optional requirement for meat and meat alternates is delayed in the final rule until 8 months of age. At that time, infants will have already been introduced to infant cereal, fruit, and vegetables.

Cooked dry beans and peas: The proposed rule allowed cooked dry beans and peas, in the appropriate consistencies, as meat alternates. Fifteen commenters responded to this provision. Eleven commenters were in favor of including dry beans and peas as meat alternates in the infant meal pattern and three commenters were opposed. One commenter in favor felt their inclusion would help to meet the needs of the population served. Another felt the inclusion of beans and peas would allow for greater flexibility in the meal pattern. One commenter thought they should be allowed but not encouraged due to their tendency to produce abdominal discomfort. The commenters opposed to including dry beans and peas disapproved due to the difficulty in digesting them; the claim that they are low in iron; and the questionable palatability to infants.

Dry beans and peas are included in the final rule as proposed. The Department acknowledges that there may be some difficulty in digesting beans and peas and in getting infants to accept them. The Department will issue guidance material explaining that if problems with digestibility or palatability arise, their use should be discontinued. Several commenters expressed the need for guidance on serving methods, preparation techniques, and on how to combine beans and peas with other foods to form a complete protein. These topics will also be discussed in guidance. And concerning the claim that dry beans and peas are not an acceptable meat alternate due to low iron content, the Department would like to point out that dry beans and peas are actually a good source of iron.

As noted above, the Department will include meat and meat alternates as optional items in the infant meal pattern at lunch and supper at 8 months of age and older in order to encourage solids to be introduced slowly. Dry beans and peas are therefore included at 8 months of age and older at lunch and supper.

Peanut butter: The proposed rule did not include peanut butter as a meat alternate due to its association with choking. Two commenters were in favor and one opposed to including peanut butter as a meat alternate. One commenter in favor claimed the infant would not be in danger of choking if the peanut butter were thinly spread.

The Department acknowledges that the risk of choking can be minimized with the proper serving of peanut butter. However, the overwhelming evidence does associate peanut butter with choking in infants and the Department is not including peanut butter in the final rule. One commenter questioned if nuts, seeds, and other nut butters are allowed since they are now included in the meal pattern for older children. No nuts, seeds, or nut butters are included in the infant meal pattern final rule. Again, there is a concern with these foods being associated with choking in infants. The Department believes there is sufficient variety offered in meat and meat alternates, and there is no need to include foods which place the infant at risk of choking.

Other Meat Alternates: Although the Department did not propose other changes to meat alternates, comments were received concerning meat alternates currently being offered.

Three commenters were opposed to including cheese food and cheese spread as meat alternates due to the high sodium content. The American Academy of Pediatrics states that high sodium intake during infancy does not correlate with high blood pressure later in life. Therefore, although the Department is not advocating adding salt to infants' food, cheese food and cheese spread continue to be optional meat alternates.

Four commenters questioned the inclusion of cheese and cottage cheese due to their low-iron content. The Department does not recommend the use of low-iron meat alternates unless iron-fortified infant formula is provided. Guidance material will include a list of meat and meat alternates that are good sources of iron. Cheese and cottage cheese are included as meat alternates in the final rule because they are a good source of protein and they add variety to the meal pattern. It is recommended that they be served at meals only when iron-fortified infant formula is also provided.

And finally, one commenter was opposed to allowing egg yolk before 9 months of age due to its high fat and caloric content, and the fact that it may interfere with iron absorption. Since all meat alternates will be allowed only at 8 months of age, egg yolk is included as an optional meat alternate at 8 months.

6. Child Care Food Program Supplemental Meal Pattern

The Department solicited comments regarding the inclusion of a serving of fruit or vegetable of appropriate consistency as an optional second component of the supplemental meal pattern for infants 6 through 11 months of age.

Of the 21 commenters who responded, four were opposed. Those in favor felt the inclusion of a fruit or vegetable would provide additional variety, help to establish a healthy eating pattern, encourage the consumption of nutrient-dense foods, increase menu diversity, and provide a way for infants to get vitamin C if they are unable to drink juice from a cup. Those opposed felt it unnecessary to include a fruit or vegetable in the supplement since fruits and vegetables are required at all other meals for infants 8 months of age and older, and providers are allowed to serve additional foods under the current regulations.

Although the majority of commenters were in favor of including a fruit or vegetable as an optional second component of the supplemental meal pattern, the Department does not believe there is sufficient cause for changing the current regulations. The Department recognizes the benefits of providing fruits and vegetables, but a fruit or vegetable is an optional item at lunch and supper for infants 4 through 7 months of age and is a required item at each meal for infants 8 months of age and older. In addition, if a provider wishes to serve a fruit or vegetable as an additional food in the supplement, they are allowed to do so. In fact, they may choose to provide a fruit or vegetable in place of the bread or crackers, since the bread or crackers are optional items. Due to this flexibility in the requirements the Department has not revised the supplemental meal pattern requirement.

List of Subjects

7 CFR Part 210

Food assistance programs, National School Lunch Program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 220

Food assistance programs, School Breakfast Program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 226

Daycare, Food assistance programs, Grant programs—Health, Infants and Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, Parts 210, 220, and 226 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for Part 210 continues to read as follows:

Authority: Secs. 2–12, 60 Stat. 230, as amended; sec. 10, 80 Stat. 889, as amended; 84 Stat. 270, 42 U.S.C. 1751–1760, 1779.

2. In § 210.10, paragraph (h) is revised to read as follows:

§ 210.10 Lunch components and quantities.

* * * * *

(h) *Infant lunch pattern.* When infants from birth through 11 months of age participate in the Program, an infant lunch shall be served. Foods within the infant lunch pattern shall be of texture and consistency appropriate for the particular age group being served, and shall be served to the infant during a span of time consistent with the infant's eating habits. For infants 4 through 7 months of age, solid foods are optional and should be introduced only when the infant is developmentally ready. Whenever possible the school should consult with the infant's parent in making the decision to introduce solid foods. Solid foods should be introduced one at a time on a gradual basis with the intent of ensuring health and nutritional well-being. For infants 8 through 11 months of age, the total amount of food authorized in the meal patterns set forth below must be provided in order to qualify for reimbursement. Additional foods may be served to infants 4 months of age and older with the intent of improving their overall nutrition. Breast milk, provided by the infant's mother may be served in place of infant formula from birth through 11 months of age. However, meals containing only breast milk do not qualify for reimbursement. Meals containing breast milk served to infants 4 months of age or older may be claimed for reimbursement when the other required meal component or components are supplied by the school. Although it is recommended that either breast milk or iron-fortified infant formula be served for the entire first year, whole milk may be served beginning at 8 months of age as long as infants are consuming one-third of their calories as a balanced mixture of cereal, fruits, vegetables, and other foods in order to ensure adequate sources of iron and vitamin C. The infant lunch pattern shall contain, as a minimum, each of the following components in the amounts indicated for the appropriate age group:

(1) *Birth through 3 months.* 4 to 6 fluid ounces of iron-fortified infant formula.

(2) *4 through 7 months.* (i) 4 to 8 fluid ounces of iron-fortified infant formula;

(ii) 0 to 3 tablespoons of iron-fortified dry infant cereal (optional); and

(iii) 0 to 3 tablespoons of fruit or vegetable of appropriate consistency or a combination of both (optional).

(3) *8 through 11 months.* (i) 6 to 8 fluid ounces of iron-fortified infant formula or 6 to 8 fluid ounces of whole milk;

(ii) 2 to 4 tablespoons of iron-fortified dry infant cereal and/or 1 to 4 tablespoons meat, fish, poultry, egg yolk, or cooked dry beans or peas, or ½ to 2 ounces (weight) of cheese or 1 to 4 ounces (weight or volume) of cottage cheese, cheese food or cheese spread of appropriate consistency; and

(iii) 1 to 4 tablespoons of fruit or vegetable of appropriate consistency or a combination of both.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

1. The authority citation for Part 220 continues to read as follows:

Authority: Secs. 4 and 10, 80 Stat. 886, 889 (42 U.S.C. 1773, 1779).

2. In § 220.8, paragraph (b)(2) is revised as follows:

§ 220.8 Requirements for breakfast.

* * * * *

(b) * * *

(2) When infants from birth through 11 months of age participate in the Program, an infant breakfast shall be offered. Foods within the infant breakfast pattern shall be of texture and consistency appropriate for the particular age group being served, and shall be served to the infant during a span of time consistent with the infant's eating habits. For infants 4 through 7 months of age, solid foods are optional and should be introduced only when the infant is developmentally ready. Whenever possible, the school should consult with the infant's parent in making the decision to introduce solid foods. Solid foods should be introduced one at a time on a gradual basis with the intent of ensuring health and nutritional well-being. For infants 8 through 11 months of age, the total amount of food authorized in the meal patterns set forth below must be provided in order to qualify for reimbursement. Additional foods may be served to infants 4 months of age and older with the intent of improving their overall nutrition. Breast milk, provided by the infant's mother, may be served in place of infant formula from birth through 11 months of age. However, meals containing only breast milk do not qualify for reimbursement. Meals containing breast milk served to infants 4 months or older may be claimed for reimbursement when the other required meal component or components are supplied by the school. Although it is recommended that either breast milk or iron-fortified infant formula be served for the entire first year, whole milk may be served beginning at 8 months of age as long as infants are consuming one-third of their calories as a balanced mixture of cereal, fruits, vegetables, and other foods in order to ensure adequate sources of iron and vitamin C. The infant breakfast pattern shall contain, as a minimum, each of the following components in the amounts indicated for the appropriate age groups:

(i) *Birth through 3 months.* 4 to 6 fluid ounces of iron-fortified infant formula.

(ii) *4 through 7 months.* 4 to 8 fluid ounces of iron-fortified infant formula; and 0 to 3 tablespoons of iron-fortified dry infant cereal (optional).

(iii) *8 through 11 months.* 6 to 8 fluid ounces of iron-fortified infant formula or 6 to 8 fluid ounces of whole milk; 2 to 4 tablespoons of iron-fortified dry infant cereal; and 1 to 4 tablespoons of fruit or vegetable of appropriate consistency or a combination of both.

* * * * *

PART 226—CHILD CARE FOOD PROGRAM

1. The authority citation for Part 226 continues to read as follows:

Authority: Secs. 323, 326 and 361, Pub. L. 99–500 and 99–591, 100 Stat. 1783 and 3341 (42 U.S.C. 1758, 1760, and 176–6); secs. 803, 810 and 820, Pub. L. 97–35, 95 Stat. 521–535 (42 U.S.C. 1758, 1766); sec. 2, Pub. L. 95–627, 92 Stat. 3603 (42 U.S.C. 1766); sec. 10, Pub. L. 89–642, 80 Stat. 889 (42 U.S.C. 1779), unless otherwise noted.

2. In § 226.20, paragraph (b) is revised as follows:

§ 226.20 Requirements for meals.

* * * * *

(b) *Infant meal pattern.* When infants from birth through 11 months of age participate in the Program, an infant

meal shall be offered. Foods within the infant meal pattern shall be of texture and consistency appropriate for the particular age group being served, and shall be served during a span of time consistent with the infant's eating habits. For infants 4 through 7 months of age, solid foods are optional and should be introduced only if the infant is developmentally ready. Whenever possible the child care facility should consult with the infant's parent in making the decision to introduce solid foods. Solid foods should be introduced one at a time on a gradual basis with the intent of ensuring health and nutritional well-being. For infants 8 through 11 months of age, the total amount of food authorized in the meal patterns set forth below must be provided in order to qualify for reimbursement. Additional foods may be served to infants 4 months of age and older with the intent of improving their overall nutrition. Breast milk, provided by the infant's mother, may be served in place of infant formula from birth through 11 months of age. However, meals containing only breast milk do not qualify for reimbursement. Meals containing breast milk served to infants 4 months of age or older may be claimed for reimbursement when the other required meal component or components are supplied by the child care facility. Although it is recommended that either breast milk or iron-fortified infant formula be served for the entire first year, whole milk may be served beginning at 8 months of age as long as infants are consuming one-third of their calories as a balanced mixture of cereal, fruits, vegetables, and other foods in order to ensure adequate sources of iron and vitaman C. Juice should not be offered to infants until they are ready to drink from a cup, in order to develop behaviors that may prevent baby bottle tooth decay. The infant meal pattern shall contain, as a minimum, each of the following components in the amounts indicated for the appropriate age group:

(1) Birth through 3 months. (i) Breakfast—4 to 6 fluid ounces of iron-fortified infant formula;

(ii) Lunch or supper—4 to 6 fluid ounces of iron-fortified infant formula;

(iii) Supplemental food—4 to 6 fluid ounces of iron-fortified infant formula.

(2) 4 through 7 months. (i) Breakfast—4 to 8 fluid ounces of iron-fortified infant formula; and 0 to 3 tablespoons of iron-fortified dry infant cereal (optional);

(ii) Lunch or supper—4 to 8 fluid ounces of iron-fortified infant formula; and 0 to 3 tablespoons of iron-fortified dry infant cereal (optional); and 0 to 3 tablespoons of fruit or vegetable of appropriate consistency or a combination of both (optional);

(iii) Supplemental food—4 to 6 fluid ounces of iron-fortified infant formula.

(3) 8 through 11 months. (i) Breakfast—6 to 8 fluid ounces of iron-fortified infant formula or 6 to 8 fluid ounces whole milk; 2 to 4 tablespoons of iron-fortified dry infant cereal; and 1 to 4 tablespoons of fruit or vegetable of appropriate consistency or a combination of both;

(ii) Lunch or supper—6 to 8 fluid ounces of iron-fortified infant formula or 6 to 8 fluid ounces whole milk; 2 to 4 tablespoons of iron-fortified dry infant cereal and/or 1 to 4 tablespoons of meat, fish, poultry, egg yolk, or cooked dry beans or peas, or ½ to 2 ounces (weight) of cheese or 1 to 4 ounces (weight or volume) of cottage cheese or cheese food or cheese spread of appropriate consistency; and 1 to 4 tablespoons of fruit or vegetable of appropriate consistency or a combination of both;

(iii) Supplemental food—2 to 4 fluid ounces of iron-fortified infant formula, whole milk, or full strength fruit juice and 0 to ½ slice of crusty bread (optional) or 0 to 2 cracker type products (optional) made from whole-grain or enriched meal or flour and which are suitable for an infant for use as a finger food.

(4) The minimum amount of food components to be served as breakfast, lunch, supper or supplement as set forth in paragraphs (b), (1), (2), and (3) of this section are as follows:

CHILD CARE INFANT MEAL PATTERN

	Birth through 3 months	4 through 7 months	8 through 11 months
Breakfast	4–6 fl.oz. formula [1]	4–8 fl.oz. formula [1] or breast milk	6–8 fl.oz. formula [1] breast milk, or whole milk.
		0–3 Tbsp. infant cereal [2] (optional)	2–4 Tbsp. infant cereal [2].
			1–4 Tbsp. fruit and/or vegetable.
Lunch or supper	4–6 fl.oz. formula [1]	4–8 fl.oz. formula [1] or breast milk	6–8 fl.oz. formula [1] breast milk, or whole milk.
		0–3 Tbsp. infant cereal [2] (optional)	2–4 Tbsp. infant cereal [2] and/or
		0–3 Tbsp. fruit and/or vegetable (optional).	1–4 Tbsp. meat, fish, poultry, egg yolk, or cooked dry beans or peas, or 1/2–2 oz. cheese or
			1–4 oz. cottage cheese, cheese food, or cheese spread
			1–4 Tbsp. fruit and/or vegetable.
Supplement	4–6 fl.oz. formula [1]	4–6 fl.oz. formula [1] or breast milk	2–4 fl.oz. formula,[1] breast milk, whole milk, or fruit juice [3].
			0–½ bread or
			0–2 crackers (optional).

[1] Shall be iron-fortified infant formula.
[2] Shall be iron-fortified dry infant cereal.
[3] Shall be full-strength fruit juice.
[4] Shall be from whole-grain or enriched meal or flour.

* * * * *

Date: June 29, 1988.

Anna Kondratas,

Administrator.

[FR Doc. 88–15092 Filed 7–5–88; 8:45 am]

BILLING CODE 3410-30-M

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children (WIC); Temporary Additional Administrative Funding for Food-Cost-Cutting Initiatives, and Other Provisions

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends regulations governing the Special Supplemental Food Program for Women, Infants and Children (WIC) to comply with the mandates of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Pub. L. 100–237) enacted January 8, 1988. First, the rulemaking implements the method established in section 8(a) and (b) of this legislation whereby State agencies initiating an approved competitive bidding, rebate, home delivery, or direct distribution system can convert a portion of the savings generated by the system from food funding into administrative and program services funding. This conversion authority addresses the cost of managing the additional participation that the system makes possible. State agencies can exercise this authority only to the extent that they actually achieve participation increases through the approved initiative. This is a short-term supplement to administrative funding which will defray the increased costs of managing increased participation until the WIC administrative funding formula in § 246.16 of regulations has had time to respond fully to the increases. Funds conversion authority will be available to all State agencies implementing or significantly changing approved systems on or after October 1, 1987, the effective date of this provision. Increases achieved after this date through systems implemented in Fiscal Year 1987 will also generate funds conversion. Finally, State agencies which implemented such systems before Fiscal year 1987 will be eligible if they significantly changed their systems so as to generate participation increases after October 1, 1987.

Second, this rule implements section 9 of Pub. L. 100–237 by mandating that State agencies make provision in their State Plans for coordination of the WIC Program with Medicaid counseling.

Third, this rule implements section 11 of Pub. L. 100–237 by mandating that infant formula manufacturing wanting to supply formula to the program register with the Department of Health and Human Services under the Food, Drug, and Cosmetic Act. In further compliance with Pub. L 100–237, this interim rulemaking stipulates that such manufacturers wishing to bid on State contracts to supply formula to WIC must first certify with the State health department that the formula complies with the Food, Drug and Cosmetic Act and regulations issued pursuant to the Act.

Fourth, this rulemaking modifies States' authority to carry forward and backspend their WIC grants. As required by section 12 of Pub. L. 100–237, the rule permits State agencies to backspend and/or carry forward food funds and to carry forward nutrition services and administration funds as long as the total amount backspent and carried forward does not exceed one percent of the amount of funds allocated to the State agency for the fiscal year. Because this provision is effective on the date of enactment of Pub. L. 100–237, that is, January 8, 1988, it applies to the use of funds allocated by the Food and Nutrition Service (FNS) to State agencies for Fiscal Year 1988 and following years.

DATES: The following effective dates for provisions in this rulemaking are established by law:

Section	Provision and number in preamble	Effective date
246.4(a)(8)	Medicaid Coordination (Item #1)	January, 1988 (Applies to Fiscal Year 1988 State Plans.)
246.4(a)(14)(viii)	Funds Conversion (Item #4)	October 1, 1987.
246.10(f)	Infant Formula Registration (Item #2)	January 8, 1988.
246.14(a)(2)	Funds Conversion (Item #4)	October 1, 1987.
246.16(b)(2)	Backspending/Carry-forward (Item #3)	January 8, 1988.
246.16(g)	Funds Conversion (Item #4)	October 1, 1987.

Comments must be received on or before December 1, 1988.

ADDRESS: Comments may be mailed to Ronald J. Vogel, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1017, Alexandria, Virginia 22302 (703) 756–3746. All written submissions will be available for public inspection at this address during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ronald J. Vogel at the above address or telephone number.

SUPPLEMENTARY INFORMATION:

Classification

This interim rule has been reviewed under Executive Order 12291, and has been determined to not be major. The Department does not anticipate that this rule will have an impact on the economy of $100 million or more. This rule will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. Nor will this rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 606–612). Pursuant to that review, Anna Kondratas, Administrator of the Food and Nutrition Service, has certified that this interim rule does not have a significant economic impact on a substantial number of small entities. The reporting requirements established by this rulemaking are under review by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

The provisions in this rulemaking concerning conversion of food funds to administrative and program services funds mandated by Pub. L. 100–237 and implemented in this rulemaking have a legislatively established effective date of October 1, 1987. State agencies are eligible to convert funds for actions taken as early as Fiscal Year 1987 and are authorized by Pub. L. 100–237 to

initiate new actions which generate conversion authority from the beginning of Fiscal Year 1988. In addition to the retroactive effective date, there is the immediate need to facilitate food-cost-cutting initiatives through funds conversion. For these reasons, Anna Kondratas, Administrator of FNS, has certified that public comment on this rule and a post-publication waiting period prior to implementation are impracticable and contrary to the public interest and that, therefore, good cause exists for making this rule effective immediately upon promulgation.

The provisions contained in this rule are all pursuant to mandates of Pub. L. 100–237 and made effective in accordance with legislatively mandated effective dates. For these reasons, prior public comment and publication of this rulemaking not less than 30 days prior to the effective dates are not required under 5 U.S.C. 553. However, the Department has found it necessary to exercise limited discretion in implementing these mandates and believes that, where choices have been made in the absence of legislative dictates, the rule may be improved by public comment. Therefore, comments are solicited on this rule until December 1, 1988. This long comment period will afford the public the opportunity to benefit from the experience of the funds conversion provisions as implemented through the remainder of the current fiscal year and carried forward at the outset of Fiscal Year 1989. All comments received will be analyzed, and any appropriate changes in the rule will be incorporated in a subsequent final rule.

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule-related notice published June 24, 1983 (48 FR 29114)).

1. Coordination of WIC Program Operations with Medicaid Counseling (Section 246.4(a)(8))

Section 9 of Pub. L. 100–237, which amends section 17(f)(1)(C)(iii) of the Child Nutrition Act of 1966 (42 U.SC. 1786(f)(1)(C)(iii)), requires that program operations be coordinated with Medicaid counseling. Accordingly, § 246.4(a)(8) of this rulemaking is amended to require that each State agency describe in its State Plan how it will achieve the mandated coordination.

2. Requirements for Infant Formula Manufacturers Providing Formula to the WIC Program (Section 246.10(f))

Section 11 of Pub. L. 100–237, which amends section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)), imposes requirements on manufacturers of infant formula to ensure that WIC participants receive only formulas which comply fully with the Federal Food, Drug, and Cosmetic Act (the "Act") (21 U.S.C. 321 *et seq.*). In order to supply formula to the WIC Program, manufacturers must register with the Secretary of the Department of Health and Human Services (DHHS). The Act already requires manufacturers wanting to sell their formulas in the United States to inform DHHS that their products comply with the requirements of the Act. Therefore, the registration requirement in Pub. L. 100–237 stresses in specific references to the WIC Program a standing legislative mandate rather than establishing an additional requirement. Public Law 100–237 also mandates that formula manufacturers wishing to bid on State contracts certify to the State health department that their formulas comply with the Federal Food, Drug, and Cosmetic Act and regulations issued pursuant to the Act. This constitutes a new requirement. State agencies undertaking competitive formula procurements must ensure that this notification requirement is integrated into their standard procurement procedures.

3. Backspending and Carryover of State Agency Program Allocations (Section 246.16(b)(2))

Under the provisions of Pub. L. 99–591 and the implementing regulations of June 4, 1987 (see 52 FR 21232), a State agency could *either* use up to one percent of its *food* grant to cover food costs incurred in the preceding fiscal year *or* carry forward up to one percent of its *total allocation* of food and administrative and program services funds into the following fiscal year. The State agency could not direct funds from a single fiscal year both backward and forward. This prohibition proved unduly limiting. For example, a State agency might have unmet food costs from the preceding year equal to one-tenth of one percent of its current food grant. If it used current-year funds to cover past costs, no matter how small, it could not carry forward any unspent funds into the next year. Therefore, section 12 of Pub. L. 100–237 amended section 17(i)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)) to permit State agencies to *both* backspend *and* carry over funds from a given fiscal year's allocation, provided that the total amount transferred out of any fiscal year does not exceed one percent of the State's total grant. Thus the State in the above example could backspend the very small portion of its food grant and carry over administrative or food funds, or both, into the next year. The prohibition against backspending administrative funds was not removed by Pub. L. 100–237. This rulemaking also confirms that food funds carried forward by the State agency retain their identity as food funds and cannot be converted by the State agency into administrative and program services funding. (See § 246.14(a)(2), which establishes the general prohibition against changing food funds into administrative and program services funds and provides for exceptions to it.)

4. Administrative Funding for Food-Cost-Cutting Initiatives (Sections 246.4(a)(14)(viii), 246.14(a)(2))

a. General Discussion

In response to rising food costs and the desire to use their food grants more efficiently, State agencies have recently become increasingly interested in food-cost-cutting initiatives; for example, infant formula rebate systems. Such initiatives may serve the best interest of the program by providing benefits to more participants at no additional food cost. Yet these participation increases may generate additional administrative costs for State agencies. Some State agencies have expressed reluctance to undertake such initiatives without the additional administrative and program services funds they consider necessary to manage the resultant increased participation. State agencies have recommended that this need be addressed by allowing them to covert a portion of the savings to administrative and program services funding. Until now, food cost savings have retained their identity as food funds; thus savings were channeled entirely into participation increases. The newly established WIC administrative funding formula (see 53 FR 2213) bases funding directly on the State agency's participation level. Over the long term, this formula will award additional administrative funds for participation increases. However, Congress has provided a means for short-term relief through which the State agency can be funded for the cost of managing additional participation as it is generated, until the formula takes full cognizance of the increases. To this end, section 8 of Pub. L. 100–237 amends sections 17(k) and (f) (42 U.S.C. 1786(k)

and (f)) and describes in detail the method whereby a portion of the savings resulting from specified food-cost-cutting initiatives will be converted into administrative and program services funding. As the legislation specifies, this conversion process can take place only to the extent that the State agency actually adds participants as the result of the initiative.

b. Eligibility for Conversion Authority

Congress intended that the conversion authority be available to all State agencies implementing approved initiatives or making approved *significant changes* to food-cost-cutting systems on or after Octoer 1, 1987, the legislative effective date of this provision. Increases achieved after this date through initiatives implemented in Fiscal Year 1987 can also trigger funds conversion. Finally, State agencies which implemented such systems before Fiscal Year 1987 will be eligible if they have *significantly changed* these systems and the modified systems generate participation increases after October 1, 1987. These conditions were described by Senator Leahy in debate concerning H.R. 1340, which became Pub. L. 100–237. See generally 133 Cong. Rec. S18569–18570 (daily ed. December 19, 1987) (remarks of Senator Leahy).

c. Categories of Included Initiatives

Congress has specifically identified, to the exclusion of all others, the categories of food-cost-cutting initiatives for which conversion authority can be granted: "a competitive bidding, rebate, direct distribution, or home delivery system" (42 U.S.C. 1786(h)(5)(A)). Although these categories are not mutually exclusive and can exist in various combinations, they are all readily identifiable. "Competitive bidding" refers to the standard free and open competition through which one bidder, all other things being equal, is selected on the basis of price. In "rebate" systems, the State agency receives rebate payments from suppliers based on the amount of the suppliers' product purchased with WIC funds. Rebates and competitive bidding are combined in systems in which the State agency offers an exclusive contract for a program food to the bidder offering the best WIC cost reduction. The successful bidder then provides a rebate to the State agency for each unit of the food product purchased by program participants at retail stores with WIC food instruments. A State agency may also accept rebates from manufacturers without having engaged in competitive bidding, as long as suppliers who do not provide a rebate may continue to sell to the WIC Program in the State. Direct distribution and home delivery systems are undertaken by State agencies so that they can obtain foods for participants at less than retail prices. Both systems may include competitive bidding. Other management initiatives which may also have food-cost-cutting implications, such as vendor selection systems and breast-feeding promotions, are ineligible by law for the conversion of food-cost savings to administrative and program service funding.

d. Identifying New and "Significantly Changed" Initiatives

The categories of initiatives specified in Pub. L. 100–237 are self-evident. However, in order to implement this legislation it is also necessary to distinguish between a *new* initiative in one of the specified categories, a significant change to an existent system, and a minor modification of an established system. This distinction must be made for the following reasons: First, Congressional sponsors of the legislation have stressed that the authority to convert food funding to administrative and program services funding is intended as an incentive to States to initiate new systems. See 133 Cong. Rec. S18569–18570 (daily ed. December 19, 1987) (remarks of Senator Leahy). (Systems already in place were intended to benefit only if: (1) Started in Fiscal Year 1987 in anticipation of this legislation and resulting in participation increases as of October 1, 1987, or (2) implemented before Fiscal Year 1987 but, as the result of a significant change in the system, generating increases after October 1, 1987.) Second, Congress intended the conversion process to fill a temporary need until such time as the participation-based WIC administrative funding formula has incorporated the increases achieved through the initiative. The status of the conversion process as a temporary incentive to promote new efforts creates the need to be able to identify genuinely new initiatives and significant changes to established systems. Mere modifications of established systems may not benefit from the conversion process. See 133 Cong. Rec. S18569–18570 (daily ed. December 19, 1987) (remarks of Senator Leahy).

Whenever an initiative is prima facie new, e.g., a State agency which had previously paid retail prices for all WIC foods institutes an infant formula rebate system, no test of newness need be applied. However, an objective standard must be applied to determine whether a system has been significantly changed when it is related to a previous action of the State agency. For example, if a State with a longstanding competitive procurement of infant formula begins to purchase WIC cereals through competitive bidding, has it significantly changed or made only a minor modification in a standing practice? In the absence of a narrative definition of significant change which can be uniformly, equitably applied to this and other systems where change has taken place, an objective numerical standard must be developed. The Department believes that the significance of a change can be quantified in terms of the amount of savings it can be expected to achieve. Only a significant departure from established practice can generate a significant food cost savings. Thus the Department will authorize conversion authority for system changes if the Department determines, based on State agency estimates, that they will generate a minimum of a 3-percent reduction in the State agency's average food package cost for the first 12 months of implementation. The potential savings will be calculated using the State agency's average food package cost, adjusted for inflation, as established through the administrative funding formula. Like newly established systems, significantly changed systems will generate funds conversion only to the extent that they actually yield increased participation.

The concept of significant change to an existent system can be further clarified though a few examples. Significant change rules out increases in participation which do not result from actions taken by the State agency. Therefore, increases made possible by a statewide retail food price war, for example, cannot generate conversion authority. If a State agency signs a multi-year contract with a food supplier which provides for an unconditional rebate increase each year, or if a supplier agrees to increase a State's rebate to match any higher rebate it may subsequently provide to any other State, such increases are not significant changes to an existing system. However, they are an integral part of the originally approved system and, as such, they will result in a recalculation of the State's estimate of participation increases and a consequent expansion of its conversion authority. Since they are integral to the originally approved system, such increases are not subject to the 3-percent standard. (Inflation clauses in a contract with a supplier, or changes which call for the contractor to increase rebates in the same amount it increases its wholesale prices, have no impact on conversion authority because they merely enable the State to maintain its

level of food cost savings and do not make further participation increases possible.)

e. Description of System in State Plan or Amendment

The State agency planning to significantly change an existent system or implement a new food-cost-cutting system for which it seeks conversion authority must first include a full description of the system or change in its State Plan or in a plan amendment. Section 8(b) of Pub. L. 100–237, which amends section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)), requires that the system be described in the Plan or amendment. This is not a new requirement. Rather, it is encompassed by § 246.4(a)(14), which requires the State agency to describe its food delivery system. All of the food-cost-cutting initiatives specified in Pub. L. 100–237 are either types of food delivery systems or major modifications of food delivery systems. However, pursuant to this legislation, a new requirement is added to § 246.4(a)(14). The plan must now provide an estimate of the increased participation which will result from the initiative, including an explanation of how the estimate was developed.

In reviewing the State Plan or amendment, FNS will assess the State's estimate of increased participation and, if necessary, make adjustments. (An adjustment of this estimate after conditional plan approval will be necessary if, for example, the net product price in a competitive procurement turns out to differ from the State agency's expectation.)

f. Projection of Participation Exclusive of Approved System

FNS will use the participation projection process established for the purpose of allocating administrative and program services funds in the administrative funding formula (see 53 FR 2216–2217) in order to determine base participation for the fiscal year, excluding anticipated increases which are yet to be achieved through the food-cost-cutting initiative. That is, the State agency's current fiscal year food grant will be divided by its average food expenditure per participant over the past July through June. This is the most recent 12-month period for which final, closed-out cost data will always be available for all States. The average food expenditure per participant will be adjusted to reflect the anticipated effects of inflation. The quotient of this computation will be divided by 12 to yield a monthly participation level. This three-step procedure can be expressed as follows:

(1) average food expenditure per participant for past July-June times inflation factor equals adjusted food expenditure per participant
(2) current fiscal year food grant divided by adjusted food expenditure per participant equals base participation projection
(3) base participation projection divided by 12 equals monthly base participation projection

g. Computation of Conversion Rate and Conversion Process

FNS will also, at the time of approval, compute the State agency's average monthly administrative grant per participant for the prior fiscal year. The 12-month period employed in this computation is more recent than the period used to determine the base participation projection because this computation requires only final participation figures, which are available much sooner than final food cost data. The average administrative grant per person, adjusted for inflation, will be the rate at which the State agency can convert food funds to administrative and program services funding for each additional participant per month above the base level projected by FNS. The two-part computation of the conversion rate is expressed as follows:

(1) administrative grant for prior fiscal year divided by total participation for prior fiscal year equals average monthly administrative grant per participant
(2) average monthly administrative grant per participant times inflation factor equals adjusted average monthly administrative grant per participant

Section 246.16(g)(4)(i) implements the limit in Pub. L. 100–237 on the number of added partipants for whom funds can be converted. The maximum number of conversions allowed in any fiscal year will be established through an annualized calculation. Thus conversion will not be subject to a monthly limit. The fiscal year cap on conversions will be calculated by multiplying the approved monthly estimate of the participation increase that can be achieved through the food-cost-cutting system times the number of months in the fiscal year during which the approved system operates. For example, a State with an approved monthly increase estimate of 30 participants which begins its rebate system in October would have a conversion cap of 30 participants X 12 months = 360 conversions. This provision allows States leeway in managing large participation influxes without penalty for major monthly fluctuations in participation growth.

However, it should be noted that the kinds of food-cost-cutting systems specified in the law and regulations all have the potential to generate significant participation increases in a short period of time. Therefore, they present a relatively unfamiliar caseload management challenge. State agencies must exercise special diligence in order to ensure that they do not, at the end of a fiscal year, increase participation to a level which cannot be maintained in the following fiscal year. The Department considered placing a limit on conversion authority for participants added in the fourth quarter of a fiscal year in order to discourage year-end build-ups which could not be sustained in the next year. However, caseload management has traditionally been the exclusive responsibility of the State agencies. Therefore, the Department decided that States should be allowed to address the additional caseload management challenge presented by food-cost-cutting systems without the imposition of new regulatory controls. FNS will continue to monitor caseload management and work with State agencies in this area in an advisory capacity. In the event that participation patterns in States implementing food-cost-cutting systems do reveal year-end peaks followed by caseload reductions, the Department will reconsider the appropriateness of fourth-quarter conversion caps.

The Department recognizes that the administrative costs of serving additional participants are not incurred at the same rate as conversion funds are earned through participation increases. A State agency may, for example, need to hire additional staff in advance of assigning the increased caseload expected to result from the food-cost-cutting initiative. Therefore, this rulemaking does not prohibit State agencies *with approved initiatives* from converting funds prior to the time they are actually earned through monthly participation increases. However, States must not convert more funds in any fiscal year than they have earned through participation increases.

h. Year-end Reconciliation

After the end of a fiscal year for which conversion authority has been granted, FNS will determine the amount of food funds the State agency is entitled to convert to administrative and program services funds based on the increase in participation achieved through its approved system. In the event that the State agency has converted excessive funds, FNS will

recover the amount of the excess conversion.

i. Conversion in Subsequent Fiscal Years

At the beginning of subsequent fiscal years, FNS will (1) reestablish the State agency's base participation projection as part of the administrative funding formula computations; (2) with input from the State agency, determine the participation increase expected to be achieved through the approved food-cost-cutting initiative; and (3) recompute the State agency's conversion rate. The State agency can continue to convert funds for each participant per month in excess of the base participation projection, up to the sum of the base projection and the estimated increase, until the end of the fiscal year in which its actual participation equals the projection for the following fiscal year. When the State agency's actual participation equals this sum, its achieved participation increase will be fully credited under the administrative funding formula.

In the following example of the conversion process, it is assumed that: (1) The State agency receives no grant increases, and there is no inflation, in the years covered by the example; (2) the State agency implements a rebate system in Fiscal Year 1988; and (3) FNS has approved the State agency's estimate that it can serve an additional 20 participants per month as a result of the rebate system. This example is intended only to represent the basic operation of the conversion process in conjunction with the administrative funding formula over time; it does not incorporate all factors which affect the rate of participation growth.

CONVERSION PROCESS: HOW PARTICIPATION INCREASES ARE CREDITED OVER TIME

	Food expenditure per participant used for base projection	FNS-projected base participation (mo. avg.)	Actual participation (mo. avg.)	Number of additional participants		Participation increases credited by—	
				Estimated	Actual	Conversion	Funding formula
Fiscal year:							
1988	$30.00	100	109	20	9	9	0
1989	28.75	104	120	16	16	16	4
1990	25.00	120	120	0	0	0	+16
							20

j. Stability Grants Unaffected by Conversion

For purposes of establishing a State agency's food and administrative and program services grants, funds converted during the preceding fiscal year will be treated as though no conversion had taken place.

k. Conforming Amendment

A conforming amendment to permit conversion of food funds to administrative and program services funds for the purpose described above is made in § 246.14(a)(2).

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs—Social programs, Infants and children, Maternal and child health, Nutrition, Nutrition education, Public assistance programs, WIC, Women.

For reasons set forth in the preamble, 7 CFR Part 246 is amended as follows:

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

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

Authority: Sec 8–12, Pub. L. 100–237, 101 Stat. 1733 (42 U.S.C. 1786); sec. 341–353, Pub. L. 99–500 and 99–591, 100 Stat. 1783 and 3341 (42 U.S.C. 1786); sec. 3, Pub. L. 95–627, 92 Stat. 3611 (42 U.S.C. 1786); sec. 203, Pub. L. 96–499, 94 Stat. 2599; sec. 815, Pub. L. 97–35, 95 Stat. 521 (42 U.S.C. 1786).

2. In § 246.4:

a. Paragraph (a)(8) is revised.

b. A new paragraph (a)(14)(viii) is added.

The revision and addition read as follows:

§ 246.4 State plan.

(a) * * *

(8) A description of how the State agency plans to coordinate program operations with special counseling services and other programs, including, but not limited to, the Expanded Food and Nutrition Education Program (7 U.S.C. 343(d) and 3175), the Food Stamp Program (7 U.S.C. 2011 *et seq.*), the Early and Periodic Screening, Diagnosis and Treatment Program (Title XIX of the Social Security Act), the Aid to Families with Dependent Children (AFDC) Program (42 U.S.C. 601–615), the Maternal and Child Health (MCH) Program (42 U.S.C. 701–709), Medicaid Program (42 U.S.C. 1396 *et seq.*), family planning, immunization, prenatal care, well-child care, alcohol and drug abuse counseling, and child abuse counseling.

* * * * *

(14) * * *

(viii) For State agencies applying for authority to covert food funds to administrative and program services funds under § 246.16(g) of this part, a full description of their proposed food-cost-cutting system or system modification, including an estimate of the increased participation which will result from their system or modification, together with an explanation of how the estimate was developed.

* * * * *

3. In § 246.10, paragraph (f) is added to read as follows:

§ 246.10 Supplemental foods.

(f) *Infant formula manufacturer registration.* Infant formula manufacturers supplying formula to the WIC Program shall register with the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 *et seq.*). Such manufacturers wishing to bid for a State contract to supply infant formula to the program shall first certify with the State health department that their formulas comply with the Federal Food, Drug, and Cosmetic Act and regulations issued pursuant to the Act.

4. In § 246.14, paragraph (a)(2) is revised to read as follows:

§ 246.14 Program costs.

(a) * * *

(2) Except as provided in paragraph (e) of this section and § 246.16(g), funds allocated by FNS for food purchases may not be used to pay administrative and program services costs. However, administrative and program services funds may be used to pay for food costs.

* * * * *

5. In § 246.16:

a. Paragraph (b)(2) is revised.

b. A new paragraph (g) is added.

The revision and addition read as follows:

§ 246.16 Distribution of funds.

* * * * *

(b) * * *

(2) All funds not made available to the Secretary in accordance with paragraph (b)(1) of this section shall be distributed to State agencies on the basis of funding formulas which allocate funds to all State agencies for food costs and administrative and program services costs incurred during the fiscal year for which the funds had been made available to the Department. A State agency may transfer funds allocated to it for any fiscal year under the following conditions:

(i) Not more than one percent of the funds allocated to the State agency for food costs incurred in any fiscal year may be expended by such State agency for food costs incurred in the preceding fiscal year;

(ii) Not more than one percent of the total funds allocated to the State agency for food costs and for administrative and program services costs in any fiscal year may be carried forward and expended by such State agency for such costs incurred in the subsequent fiscal year. Food funds carried forward by the State agency shall be used by the State agency only for food costs incurred in the subsequent fiscal year and, in accordance with § 246.14(a)(2) of this part, shall not be used to cover administrative and program services costs. Any funds carried forward by the State agency for expenditures in the subsequent fiscal year shall not affect the amount of funds allocated to such State agency for the subsequent fiscal year. FNS shall presume that the funds thus carried forward are the first funds expended by such State agency for costs incurred in the subsequent fiscal year; and

(iii) The total amount of funds transferred from any fiscal year shall not exceed 1 percent of the funds allocated to such State agency for such fiscal year.

* * * * *

(g) *Conversion of food funds.* For participation increases achieved on or after October 1, 1987 through implementation of a competitive bidding, rebate, home delivery, or direct distribution system, State agencies implementing or significantly changing such systems after October 1, 1986 and State agencies implementing such systems before that date but significantly changing such systems so as to generate participation increases after October 1, 1987 shall be authorized to convert food funds to administrative and program services funds in accordance with the following conditions and procedure.

(1) The State agency shall provide in a State Plan or plan amendment for review and approval by FNS the information required under § 246.4(a)(14)(viii) of this part;

(2) FNS shall, for each State agency with an approved State Plan or plan amendment incorporating such information—

(i) Project the State agency's participation for the fiscal year in which the approved system will be implemented, exclusive of the increase expected to result from the system, by dividing the State agency's average food expenditures per participant for the closed-out 12-month period of the preceding July through June, adjusted for inflation anticipated in the fiscal year of implementation, into the State agency's food grant for the fiscal year of implementation; and

(ii) Establish the State agency's average administrative and program services grant per participant for the fiscal year preceding the fiscal year of implementation and adjust this amount to reflect the rate of inflation anticipated in the fiscal year of implementation.

(3) For State agencies implementing such systems prior to October 1, 1987, FNS shall apply the procedure in paragraph (2) of this section retrospectively.

(4) The State agency may, for each month of the fiscal year, for each additional participant above the base participation projected under paragraph (g)(2)(i) of this section, convert food funds to administrative and program services funds at the rate established under paragraph (g)(2)(ii) of this section; Provided, however, that the number of participants for whom funds are converted for the fiscal year shall not exceed the product of the estimated participation increase approved by FNS under paragraph (g)(1) of this section and the number of months of the fiscal year during which the approved food-cost-cutting system operates.

(5) For each fiscal year following the fiscal year of implementation, ending with the fiscal year in which the State agency's actual participation equals its projected base participation for the following fiscal year. FNS shall—

(i) Project the State agency's participation independent of the increase still to be achieved through the approved system;

(ii) Estimate, with input from the State agency, the participation increase which remains to be achieved through the approved systems; and

(iii) Recompute the rate at which the State agency may convert food funds to administrative and program services funds.

(6) If a State agency seeks authority under this section to convert food funds to administrative and program services funds based on a proposed modification to an existent competitive bidding, rebate, home delivery, or direct distribution system, FNS shall grant conversion authority if FNS determines that, for the first 12 months of implementation of the modification, the State agency will, as a result of the modification, reduce its average food package cost by at least 3 percent of the average monthly food package cost projected for the State agency by FNS in conjunction with the administrative funding formula under paragraph (c)(3)(i) of this section.

(7) After the end of the fiscal year, FNS shall determine the amount of food funds which the State agency is entitled to convert to administrative and program services funds under paragraph (4) of this section. In the event that the State agency has converted more than the permitted amount of funds, FNS shall recover the State agency the amount of the excess conversion.

(8) For purposes of establishing a State agency's stability food grant and stability administrative and program services grant under paragraphs (c)(2)(i) and (c)(3)(i) of this section, respectively, amounts converted from food funds to administrative and program services funds during the preceding fiscal year shall be treated as though no conversion had taken place.

Dated: June 29, 1988.

Anna Kondratas,

Administrator, Food and Nutrition Service.

[FR Doc. 88-15089 Filed 7-5-88; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ANE-21; Amdt. 39-5928]

Airworthiness Directives; Pratt & Whitney (PW) JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, -20, -59A, -70A, -7Q, and -7Q3 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final Rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) to add requirements for a radioisotope

inspection for PW JT9D–3A, –7, –7A, –7AH, –7H, –7F, –7J, and –20 turbofan engines. This amendment amends AD 86–09–01, Amendment 39–5268 (51 FR 12509; April 11, 1986), to require a radioisotope inspection of the low pressure turbine (LPT) vane antirotation pins. This amendment is needed to further reduce the probability of LPT antirotation pin failures that can cause uncontained engine failures.

DATES: *Effective* July 6, 1988.

Compliance Schedule—As prescribed in the body of the AD.

Incorporation by Reference—Approved by the Director of the Federal Register as of July 6, 1988.

ADDRESSES: The applicable service bulletin (SB) may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457.

A copy of the SB is contained in Rules Docket Number 85–ANE–21, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Engine Certification Branch, ANE–141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7084.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) by amending AD 86–09–01, Amendment 39–5268 (51 FR 12509; April 11, 1986), to add a requirement for radioisotope inspection of the LPT antirotation pins in certain JT9D turbofan engines, was published in the **Federal Register** on July 2, 1987, (52 FR 25026). AD 86–09–01 requires: (1) Replacement of the stainless steel antirotation pins installed in the LPT module of PW JT9D–3A, –7, –7A, –7AH, –7H, –7F, –7J, and –20 turbofan engines with nickel alloy antirotation pins, and (2) incorporation of additional nickel alloy antirotation pins in the LPT module of PW JT9D–59A, –70A, –7Q, and –7Q3 turbofan engines.

Four uncontained failures and twenty-seven contained failures occurred in PW JT9D–3A, –7, –7A, –7AH, –7H, –7F, –7J, and –20 turbofan engines; and one uncontained failure and six contained failures in PW JT9D–59A, –70A, –7Q, and –7Q3 turbofan engines occurred as a result of LPT antirotation pin failures before issuance of the AD.

Since issuance of AD 86–09–01, one uncontained failure in a JT9D–7J turbofan engine, two contained failures in JT9D–7A turbofan engine, and one contained failure in a JT9D–7Q turbofan engine have occurred from failure of the LPT antirotation pins. The FAA has determined, as noted in the notice of proposed rulemaking (NPRM), that the original compliance schedule for the PW JT9D–59A, –70A, –7Q, and –7Q3 turbofan engines provides an adequate level of safety without the radioisotope inspection requirements. Therefore, an inspection procedure has been developed to detect broken antirotation pins which further reduces the probability of additional failures in PW JT9D–3A, –7, –7A, –7AH, –7H, –7F, –7J, and –20 turbofan engines.

After issuance of the proposal to amend the AD, an additional uncontained failure of a JT9D–7J turbofan engine occurred. This failure is still under investigation and pending the results, this AD may be further amended if deemed necessary.

Interested persons have been afforded the opportunity to participate in the making of this amendment, and due consideration has been given to all relevant data and comments received. Five comments were received.

Three commenters requested that the radioisotope inspection schedule in PW SB 5735 be adopted instead of the FAA proposed schedule. The SB schedule referred to sets forth a less restrictive pin replacement schedule along with repetitive inspections as compared to the FAA proposal for a replacement schedule following a one time inspection.

The FAA agrees with these commenters, with the exception of the initial inspection threshold requirement as discussed below. The FAA had determined prior to issuing the proposal to amend AD 86–09–01, based on the data submitted at that time, that the compliance schedule as stated in PW SB 5735 was not substantiated in its entirety. Since issuance of the proposal to amend AD 86–09–01, additional data was submitted to the FAA both from engine service experience and development testing. Further analysis of this data indicates that there is now adequate substantiation to justify the requirement for repetitive radioisotope inspection and the revised engine removal requirements contained in the Accomplishment Instructions of PW SB 5735. The AD has been revised accordingly.

Four commenters stated that there is no provision in the proposed AD to establish reinspection requirements for the LPT cases found upon radioisotope inspection to have no pins broken.

The FAA agrees. The proposed AD did not specify repetitive inspections for LPT cases found to contain no broken pins, since the FAA has determined that no further reinspection prior to pin replacement is necessary. It was not the FAA's intent in the NPRM to require removal within 2,500 hours, of LPT cases containing no broken pins.

Two commenters proposed a longer compliance period than 500 hours for the initial radioisotope inspection, which they stated was too restrictive. One commenter recommended 6 months and the other recommended 1,000 hours or 250 cycles.

The FAA has determined that an extension to the initial radioisotope inspection requirement from 500 hours to 750 hours is still within the demonstrated service experience and the AD has been revised accordingly. However, recent service experience does not justify extending this requirement to 1,000 hours or 6 months as recommened.

On commenter requested that a public hearing be convened to discuss the proposal if the PW SB 5735 repetitive inspection requirements were not to be adopted in the AD.

The FAA has determined that a public hearing is not necessary due to the above stated changes to the AD.

The same commenter stated that the total cost to the operators has been underestimated. The FAA agrees. The FAA has reevaluated the economic impact of this rule with the changes incorporated. No aircraft down-time was anticipated because it was assumed that the one inspection required could be accomplished overnight or at a convenient maintenance check. The total economic impact estimate of the proposal reflected only that one inspection. The man-hour estimate applied by the FAA in the calculation of the economic impact of this rule is in agreement with the estimate listed in PW SB 5735. The flexibility now provided by the allowance for the repetitive inspection versus engine removal should reduce the impact on operational disruptions from the original FAA proposal.

Since the AD compliance requirements have been relaxed, relative to the proposed requirements while maintaining an equivalent level of safety, no further public notice is deemed necessary and the proposal is adopted with the above stated changes.

Since this condition is likely to exist or develop on other engines of the same

type design, this AD amends AD 86-09-01, Amendment 39-5268 (51 FR 12509; April 11, 1986), to add a requirement for a radioisotope inspection of the antirotation pins installed in certain PW JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, and 20 turbofan engines.

Conclusion

The FAA has determined that this regulation involves approximately 900 engines at an approximate total cost of $421,200. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the rule affects only operators using Boeing 747 and McDonnell Douglas DC-10-40 aircraft in which the JT9D engines are installed, none of which are believed to be small entities. Therefore, I certify that this action: (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) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

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 amending § 39.13, Amendment 39-5268 (51 FR 12509; April 11, 1986), Airworthiness Directive (AD) 86-09-01. The amended AD is restated in its entirety for clarity as follows:

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, -20, -59A, -70A, -7Q, and -7Q3 series turbofan engines.

Compliance is required as indicated, unless already accomplished. To prevent low pressure turbine (LPT) case penetration that can result from turbine vane antirotation pin failure, accomplish the following:

(a) Radioisotope inspect, and remove from service or reinspect stainless steel (AMS 5735) antirotation pins in LPT cases installed in PW JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, and -20 turbofan engines as follows:

(1) Radioisotope inspect for broken LPT stages three, four, five, and six turbine vane antirotation pins in accordance with the Accomplishment Instructions contained in PW Service Bulletin (SB) 5735, dated February 20, 1987, within the next 750 hours time in service (TIS) after the effective date of this AD or within 4,000 hours TIS since the last LPT module shop visit, whichever occurs later.

(2) Remove from service, prior to further flight, engines with LPT cases found to contain more than 18 pins broken in any stage, or with any number of broken pins which results in a circumferential gap between any two vanes that exceeds 0.500 inch as measured on the film and replace the pins in accordance with paragraph (b) below.

(3) Reinspect thereafter and remove from service in accordance with the requirements of Table 1 in PW SB 5735, dated February 20, 1987. LPT cases found to have no broken pins do not require reinspection prior to pin replacement in accordance with paragraph (b) below.

(b) Remove from service the entire set of stainless steel (AMS 5735) antirotation pins in LPT cases installed in PW JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, and -20 turbofan engines, and replace with nickel alloy (AMS 5660/5661) pins in accordance with the Accomplishment Instructions contained in PW SB 5292, Revision 3, dated June 24, 1985, when removed from service as required by paragraph (a) above; or at the next LPT module shop visit after May 13, 1986; or by December 31, 1989, whichever occurs first.

(c) Incorporate additional LPT antirotation pins in the fourth, fifth, and sixth stage stator locations on PW JT9D-59A, -70A, -7Q, and -7Q3 turbofan engines at the next LPT module shop visit after May 13, 1986, or by December 31, 1989, whichever occurs first, in accordance with the Accomplishment Instructions contained in PW SB 5507, Revision 3, dated December 5, 1984.

Notes:

(1) Compliance with this AD requires that the entire set of the antirotation pins must be replaced, since it has been determined that partial incorporation of pins in accordance with PW SB 5292, Revision 3, dated June 24, 1985, or earlier revisions of the SB, may not preclude failure of the pins. LPT modules incorporating partial sets of pins in accordance with the requirements of PW SB 5292, Revision 3, dated June 24, 1985, or earlier revisions of the SB are subject to the requirements of this AD.

(2) For the purpose of this AD, an LPT module shop visit occurs when the LPT rotor is removed from the case and vane assembly.

(3) Incorporation of the requirements of the FAA approved revisions of the PW SB's listed below constitutes an equivalent means of compliance with the respective paragraphs of this AD that reference these SB's:

1. PW SB 5292, Revision 4, dated April 8, 1987, or Revision 5, dated October 26, 1987.

2. PW SB 5735, Revision 1, dated June 12, 1987, or Revision 2, dated March 7, 1988.

3. PW SB 5507, Revision 4, dated June 16, 1987.

(d) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(e) Upon request, an equivalent means of compliance may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

(f) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance times specified in this AD.

PW SB 5735, dated February 20, 1987, identified and described in this document, is incorporated herein and made in part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457.

This document also may be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Room 311, Rules Docket Number 85-ANE-21, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

This amendment becomes effective on July 6, 1988.

This amendment amends Amendment 39-5268, (51 FR 12509; April 11, 1986), AD 86-09-01.

Issued in Burlington, Massachusetts, on May 11, 1988.

Lawrence C. Sullivan,

Acting Director, New England Region.

[FR Doc. 88-15059 Filed 7-5-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-ANE-39; Amdt. 39-5952]

Airworthiness Directives; TEXTRON Lycoming (Formerly Avco Lycoming TEXTRON) LTS101 Series Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) which requires inspections and

maintenance actions to ensure the satisfactory condition of the engine lubrication system and the integrity of the Number 3 bearing in the rear bearing support housing (RBSH) and the Number 4 bearing in the engine gearbox. This AD supersedes Amendment 39-5787 (52 FR 48187; December 21, 1987), AD 87-26-10, effective December 23, 1987, by requiring inspections and maintenance actions which are less restrictive than those of AD 87-26-10, while ensuring the satisfactory condition of the engine lubrication system and the integrity of the Number 3 and Number 4 bearings. This AD also provides an alternate procedure for cleaning the RBSH and oil feed ring. This AD is needed to prevent an uncontained failure of the power turbine (PT) disk which could result from failure of the Number 3 or Number 4 bearing.

DATES: *Effective*—July 6, 1988.

Compliance Schedule—As prescribed in the body of the AD.

Incorporation by Reference—Approved by the Director of the Federal Register as of July 6, 1988.

ADDRESSES: The applicable service documents may be obtained from TEXTRON Lycoming, Williamsport Division, LT101 Product Support, 652 Oliver Street, Williamsport, Pennsylvania 17701.

A copy of the service documents is contained in Rules Docket Number 86-ANE-39, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Robbin Goulet, Engine Certification Branch, ANE-141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7089.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include an AD that would supersede AD 87-26-10 was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 22, 1988, (53 FR 5189).

The proposal was prompted by a determination that a significant number of engines have unnecessarily been disassembled and that an acceptable procedure following illumination of the RBSH or the airframe mounted full flow scavenge debris monitor chip light is now available to determine when a dissembly is required.

This AD supersedes Amendment 39-5787 (52 FR 48187; December 21, 1987), AD 87-26-10, which requires inspections and maintenance actions to ensure the satisfactory condition of the engine lubrication system and the integrity of the Number 3 and Number 4 bearings.

The provisions of this final rule AD are identical to those of the NPRM except that the requirements following illumination of the full flow or the RBSH scavenge debris monitors have been relaxed in the following areas: (1) Maintenance action following a chip light event classified as minor fuzz or light fuzz; (2) restarting the chip light event count to zero under certain conditions; (3) maximum operating time for return to service following a chip light event; and (4) clarification of the required maintenance action following loss of the laboratory sample.

There have been two uncontained PT disk failures on LTS101-750 series engines which resulted from failure of the Number 3 hearing. In one case, failure was attributed to progressive deterioration of the bearing, and in the second case, failure was attributed to insufficient lubrication. The LTS101-750 series engine Number 3 bearing assembly and lubrication system type design are similar to those in all LTS101 series engines. There have been several additional cases of Number 3 bearing failures due to similar failure modes in which the PT disk was retained.

In addition, there have been two uncontained PT disk failures on LTS101-650 series engines which resulted from failure of the Number 4 bearing. The investigations aimed at identifying the cause of the Number 4 bearing failures are continuing. The LTS101-605 series engine Number 4 bearing and power pinion gear assembly type design is similar to that in all LTS101 series engines. There have been several additional Number 4 bearing failures in which the PT disk was retained.

Two of the four uncontained disk failures were each preceded by several debris monitor cockpit indication light illuminations due to metal contamination. In one of the four cases, the light was not illuminated due to a break in the indication light system wiring. In another case, the light was not illuminated due to an excessive buildup of carbon on the debris monitor. The Number 4 bearing failure can result in loss of, or erratic PT speed (Np) indication, in addition to the debris monitor indication light illumination. The Np signal was lost prior to both uncontained failures attributed to Number 4 bearing failures. In all four cases, fragments from the failed disks damaged the other engine, resulting in loss of power. In three of the four cases, fragments severed the tail rotor drive shaft resulting in loss of tail rotor control.

Since this condition is likely to exist or develop on other engines of the same type design, this AD supersedes AD 87-26-10, Amendment 39-5787 (52 FR 48187; December 21, 1987), and requires: (1) Maintenance action upon illumination of the debris monitor cockpit indication light that is wired to the RBSH scavenge debris monitor and/or the airframe mounted full flow scavenge debris monitor; (2) a functional check of the full flow, and RBSH if so configured, scavenge debris monitor indication light system(s) each day of operation; (3) a one-time oil pump pressure output check; (4) repetitive oil acidity checks under certain conditions; (5) a one-time inspection of the front face of the Number 4 bearing cage for cracking or metal release; (6) a 50-hour repetitive visual inspection of the RBSH scavenge debris monitor, if so configured, otherwise an inspection of the full flow scavenge debris monitor for metal contamination; and (7) maintenance action following engine assembly under certain conditions such as a change in engine oil type, downward adjustment of the oil pump output pressure, and/or exceedance of the appropriate engine maintenance manual limit for the clogging inspection of the Number 2 and Number 3 bearing oil jets.

Interested persons have been afforded the opportunity to participate in the making of this amendment, and due consideration has been given to all relevant data and comments received. Several comments were received concerning the proposed rule.

In addition, several comments were received regarding Final Rule, Request for Comments, AD 87-26-10, effective December 23, 1987, which this amendment supersedes. Those comments are relevant to the proposed requirements in the NPRM. Due to the short period between the effectivity of AD 87-26-10 and issuance of the NPRM, comments received concerning AD 87-26-10, have also been considered herein.

This amendment incorporates changes from those proposed based on consideration of those comments. The changes have also been incorporated in Revision 1 of TEXTRON Lycoming Service Bulletin (SB) Number LT 101-77-30-0104, dated March 18, 1988.

Discussion of The Comments

Two commenters requested that the daily requirement to check the

continuity of the debris monitors be relaxed. The FAA disagrees. The FAA has evaluated the data submitted and has determined that there is insufficient data available at this time to substantiate relaxing this requirement.

One commenter stated that in cases where the particulates are classified as fuzz and the category is rated as minor or light, that material identification and verification of type may in some cases be impossible due to the difficulty encountered in collecting the fuzz. The commenter also stated that fuzz probably would not be the type of particulate liberated from a failing bearing. The commenter requested that material identification and verification of type not be required for fuzz particulates because of their relative insignificance.

The FAA has determined, based on bearing failure data, that particulates other than fuzz will be detected, presuming the detection system is properly operating, and the frequency of detection will increase prior to a bearing failure. The FAA agrees that the requirement for material identification of fuzz when rated in the minor or light category is therefore not required. The SB, which the AD incorporates, has been revised accordingly.

One commenter requested to extend the maximum allowance for return to service following a chip light illumination from 25 hours to 50 hours. This request was primarily to prevent aircraft being grounded, especially those that are operated frequently in distant locations.

The FAA agrees in part. The FAA has determined from recent data, that safety of flight will not be compromised by extending the 25 hours to 50 hours for only those chip light events determined to be Type 1 (other than fuzz) in the minor category. The requirement to cease engine operation if a chip light illumination occurs during the time allowance (50 hours), until the materials laboratory results from the previous chip light illumination are made available, still remains. The SB, which the AD incorporates, has been revised accordingly.

One commenter questioned when the chip light event count may be returned to zero for the counting purposes of certain category and type of chip light events. The commenter suggested that the event count could be returned to zero providing no chip light event occurred during 25 hours subsequent to the event.

The FAA disagrees. The FAA has determined, based on analysis, that 25 hours would not provide an adequate margin of safety, but that 100 hours would be satisfactory only for those chip light events determined to be Type 1 (other than fuzz) in the minor category or fuzz in the light category. Cases where the event is determined to be Type 2, minor, the previous chip light event of the same type/category shall always be counted unless the engine or module where the particulates previously came from is disassembled subsequent to the previous chip light event and the hardware was inspected and the source of metal corrected. The SB, which the AD incorporates, has been revised to establish a 100 hour interval prior to returning the chip light event to zero.

One commenter questioned what action would be required if the laboratory sample is lost. The FAA has determined that under this circumstance, the engine must be removed prior to further flight and the source of debris must be corrected. The SB, which the AD incorporates, has therefore been revised accordingly.

One commenter recommended that the FAA consider requiring a Spectrographic Oil Analysis Program (SOAP) as an effective means to detect wear of the Number 4 bearing.

The FAA has determined that the requirements set forth in this AD ensure the integrity of the Number 3 and Number 4 bearings and that mandating a SOAP analysis, although it may be an effective means to detect wear of the bearings, is not necessary.

One commenter recommended that a radial deflection runout check of the power pinion gear be required upon reassembly every time certain hardware is assembled to prevent excessive power pinion gear runout and thus wear of the Number 4 bearing. The LTS101 series engine maintenance manuals require this inspection only when certain hardware is replaced, not when the same hardware is reinstalled. The same commenter recommended that a dimensional inspection be required of the Number 4 bearing for diametrical wear each time the gearbox is disassembled.

The FAA has determined that these inspections are advisable but that mandating them by incorporation in this amendment is not necessary because an adequate level of safety is already ensured herein. TEXTRON Lycoming agrees that these maintenance actions are advisable and will incorporate them in all LTS101 series engine maintenance manuals in the near future.

This amendment is considered relaxatory. The immediate adoption of this regulation is necessary to prevent an undue burden on operators, and therefore, good cause exists for making it effective in less than 30 days.

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 the Federalism Assessment.

Conclusion

The FAA has determined that this regulation is relaxatory and is not considered to be major under Executive Order 12291. Therefore, I certify that this action: (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); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

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 adding to § 39.13 the following new airworthiness directive (AD) which supersedes AD 87-26-10, Amendment 39-5787 (52 FR 48187; December 21, 1987), as follows:

TEXTRON LYCOMING (formerly Avco Lycoming TEXTRON): Applies to TEXTRON Lycoming LTS101 series turboshaft engines.

Compliance is required as indicated, unless already accomplished.

To prevent an uncontained failure of the power turbine (PT) disk, which could result from failure of the Number 3 or Number 4 bearings, accomplish the following:

(a) Visually inspect all chip detectors, rate the amount and type of debris, and determine the category and type of chip light event, prior to further flight, in accordance with TEXTRON Lycoming Service Bulletin (SB) LT 101–77–30–0104, Revision 1, dated March 18, 1988, and accomplish the requirements of the Accomplishment Instructions, paragraph II. E. and II. F. of the SB, whenever the debris monitor cockpit indicator light that is wired to the rear bearing support housing (RBSH) and/or the airframe mounted full flow scavenge debris monitor is illuminated.

(b) Check, each day of operation, the continuity of the RBSH scavenge debris monitor, if so configured, and the full flow scavenge debris monitor cockpit indication light system(s) by removing the monitor(s), shorting the magnetic contacts, and ensuring that the cockpit indication light(s) illuminates. If the light does not illuminate, correct the condition prior to further flight.

Notes:

(1) Refer to the appropriate aircraft maintenance manual for corrective action.

(2) FAA approved RBSH and full flow scavenge debris monitor indication light systems which permit the continuity to be checked from the aircraft cockpit, coupled with other appropriate checks, may be approved as an equivalent means of compliance to this paragraph by the Manager, Engine Certification Office, Federal Aviation Administration, New England Region.

(c) Check the engine oil pump output pressure as follows within 50 hours in service after receipt of priority letter AD 87–10–10, issued May 15, 1987, or priority letter AD 86–22–08, issued October 30, 1986, otherwise within 50 hours in service after December 23, 1987, and immediately following an oil pump change and whenever oil pressure adjustment is required. If an engine oil pump output pressure check has been accomplished in accordance with the requirements of priority letter AD 87–10–10 R1, issued June 16, 1987, or priority letter AD 86–22–08, and documentation does not exist verifying that the pump output pressure was set at a value within the revised range given in the table of paragraph (c)(3) below, accomplish this check, as set forth below, within 50 hours in service after December 23, 1987.

(c)(1) Install a tee fitting in the line connecting the oil pressure transmitter to the engine oil pump, and install a direct reading wet pressure gauge (any gauge ranging from 0–125 up to 200 psig, calibrated to ±2.0 percent at 100 psig) and an orifice of 0.025 inches in the line between the tee fitting and the wet pressure gauge.

Caution: Ensure that the orifice is installed in the line between the tee fitting and the wet pressure gauge and not in the oil pressure supply line to the engine.

(c)(2) Start the engine and warm the oil to 150 degrees Fahrenheit minimum. Increase the gas producer speed (Ng) to 95 percent. Stabilize at this Ng for at least one minute.

(c)(3) Adjust the engine oil pressure, in accordance with the table given below, by removing the lockwire from the slotted oil pressure adjustment slug on the right side of the oil pump and filter housing assembly, and turning the slug clockwise to increase pressure or counterclockwise to decrease pressure (one turn equals approximately 15 psig). If, prior to the above adjustment, the engine oil pump pressure indicated 70 psig or less for the LTS101–750 series engines, or 58 psig or less for the LTS101–600 and –650 series engines, prior to further flight, disassemble the RBSH assembly and inspect the Number 2 and Number 3 bearings and associated components.

Engine model	Specified range (psig)
LTS101–600A–2/–650B–1/–650B–1A/–650C–2/–650C–3/–650C–3A/–750B–1/–750C–1	80–100
LTS101–600A–3/–750B–2	90–100

Note: Refer to the appropriate engine maintenance manual instructions.

(c)(4) Verify that the aircraft oil pressure indicator indicates in the green arc when the oil pump is properly adjusted. If, upon completion of the check, the aircraft pressure guage does not indicate in the green arc, the aircraft indicating system must be checked and corrected.

Note: Refer to the appropriate aircraft maintenance manual instructions.

(c)(5) Remove the wet guage, orifice, and tee fitting, and reconnect the oil pressure transmitter.

(c)(6) Ensure that the slotted oil pressure adjustment slug is lockwired after proper adjustment.

Note: Accomplishment of the oil pump output pressure check at new production engine acceptance testing or at installation of new production engines by the engine or aircraft manufacturer, respectively, is considered an equivalent means of compliance with the requirement of the above paragraph for the initial check within 50 hours in service.

(d) Conduct an oil acidity check in accordance with the procedure given in the appropriate engine maintenance manual, Chapter 71–00–00, as follows:

(d)(1) Check the oil acidity within 25 hours in service after receipt of priority letter AD 87–10–10 or priority letter AD 86–22–08, otherwise within 25 hours in service after December 23, 1987, or within 50 hours in service since the last oil change, whichever occurs later, and repeat at intervals not to exceed 25 hours in service until the oil pump filter and engine oil are changed.

(d)(2) Thereafter, perform an initial oil acidity check within 50 hours in service after the oil pump filter and engine oil are changed, and repeat at intervals not to exceed 25 hours in service until the oil pump filter and engine oil are changed.

(d)(3) If the oil acidity check limit, as specified in the appropriate engine maintenance manual, Chapter 71–00–00, is exceeded, prior to further flight, flush the engine lubrication system (including airframe-supplied oil cooler, tank, lines, etc.) and change the oil pump filter and engine oil.

Notes:

(1) Refer to the appropriate engine maintenance manual instructions.

(2) Information regarding the availability of approved acidity test kits may be obtained by contacting TEXTRON Lycoming, LT101 Product Support.

(e) Visually inspect the Number 4 power pinion gear roller bearing for cage cracks or metal release within 25 hours in service after receipt of priority letter AD 87–12–11, issued June 16, 1987, otherwise within 25 hours in service after December 23, 1987, by removing the Np indicator cover from the front of the gearbox.

(e)(1) If the cage is cracked or any metal is evident in the bearing area, prior to further flight, disassemble the gearbox to correct the condition.

(e)(2) If no cracking or metal release is noted, reinstall the Np indicator cover.

Notes:

(1) Removal and installation of the Np indicator cover should be accomplished in accordance with the appropriate engine maintenance manual and Avco Lycoming TEXTRON Maintenance Alert Notice, MA–LTS–101–72–00–0015, Revision 1, dated September 5, 1986.

(2) Inspection of the Number 4 bearing at new production engine assembly by the engine manufacturer is considered an equivalent means of compliance with the above requirement for engines with no time in service upon receipt of priority letter AD 87–12–11, otherwise as of December 23, 1987.

(f) Visually inspect the RBSH scavenge debris monitor, if so configured, otherwise inspect the full flow scavenge debris monitor, within 50 hours in service after December 23, 1987, and thereafter, at intervals not to exceed 50 hours in service since last inspection, for metal contamination. If metal debris of sufficient quantity to illuminate the debris monitor cockpit indication light is evident on the respective debris monitor, prior to further flight, accomplish the requirements of paragraph (a) above pertaining to debris monitor light illumination.

Note: Individual chips, flakes, slivers, granules, splinters, or fuzz accumulation of sufficient dimension to bridge the magnetic contacts and illuminate the debris monitor cockpit indication light, though it has not done so prior to this repetitive inspection, are also cause for rejection. Metal of insufficient quantity to illuminate the debris monitor cockpit indication light is acceptable and may be cleaned from the debris monitor upon completion of this repetitive inspection.

(g) Following assembly of an engine in which the PT module was built-up with a used RBSH and/or a used oil feed ring, conduct a post-build engine run-up and inspect the RBSH assembly in accordance with step 1.7 of Avco Lycoming TEXTRON Commercial Service Letter (CSL) 047, dated October 10, 1986, prior to return to service. If a clogging inspection value of 2.5 psig is exceeded, clean and inspect the RBSH and oil feed ring in accordance with steps 1.1 through 1.7 of Avco Lycoming TEXTRON CSL 047, dated October 10, 1986, or in accordance with SB LT 101–72–40–0103, dated January 15, 1988.

Note:

(1) Compliance with the requirements of TEXTRON Lycoming SB LT 101–72–40–0103, dated January 15, 1988, is considered an equivalent means of compliance to the post-build engine run-up and inspection requirements of this paragraph.

(2) Accomplishment of a clogging inspection of the Number 2 and Number 3 bearing oil jets, prior to RBSH disassembly, may be advantageous under certain conditions. Refer to the appropriate engine maintenance manual instructions.

(h) If the type of oil is changed, conduct a clogging inspection of the Number 2 and Number 3 bearing oil jets in accordance with the procedure given in the appropriate engine maintenance manual, Chapter 79–30–00 for LTS101–600A–2/–600A–3/–750A–1 engines and Chapter 72–00–00 for the remaining LTS101 engine models, not less than 5 hours and not to exceed 10 hours in service after the oil change. If the clogging inspection limit of 5.0 psig is exceeded, accomplish paragraph (j) below.

(i) If at any time, excluding initial engine oil pump installation, the pump output pressure is or was adjusted downward, prior to further flight, conduct a clogging inspection of the Number 2 and Number 3 bearing oil jets in accordance with the procedure given in the appropriate engine maintenance manual, Chapter 79–30–00 for LTS101–600A–2/–600A–3/–750A–1 engines and Chapter 72–00–00 for the remaining LTS101 engine models. If the clogging inspection limit of 5.0 psig is exceeded, accomplish paragraph (j) below.

(j) If the limit for the clogging inspection of the Number 2 and Number 3 bearing oil jets of 5.0 psig is exceeded during accomplishment of paragraph (h) or (i) above, or during accomplishment of the applicable TEXTRON Lycoming engine maintenance manual periodic clogging inspection requirement, prior to further flight, accomplish the following:

(j)(1) Disassemble the RBSH assembly to correct the cause of clogging, and inspect the Number 2 and Number 3 bearings and associated components.

Note: Refer to the appropriate engine maintenance manual instructions.

(j)(2) Clean and inspect the RBSH and oil feed ring in accordance with Avco Lycoming TEXTRON CSL 047, dated October 10, 1986, or in accordance with the requirements of TEXTRON Lycoming SB LT 101–72–40–0103, dated January 15, 1988.

Note: Any time the clogging inspection results of the Number 2 and Number 3 bearing oil jets are recorded to document compliance with paragraph (g), (h), (i), or (j) of this AD, it is recommended that the actual guage Number 2 value be recorded in the engine logbook.

(k) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(l) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

(m) Upon submission of substantiating data by an owner or operator, through an FAA Airworthiness Inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance schedule specified in this AD.

TEXTRON Lycoming SB LT 101–77–30–0104, Revision 1, dated March 18, 1988, TEXTRON Lycoming SB LT 101–72–40–0103, dated January 15, 1988, and Avco Lycoming TEXTRON CSL 047, dated October 10, 1986, identified and described in this document are incorporated herein and made a part hereof, pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to TEXTRON Lycoming, Williamsport Division, LT101 Product Support, 654 Oliver Street, Williamsport, Pennsylvania 17701. These documents also may be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Rules Docket Number 86–ANE–39, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

This amendment becomes effective on July 6, 1988.

This amendment supersedes Amendment 39–5787 (52 FR 48187; December 21, 1987), AD 87–26–10.

Issued in Burlington, Massachusetts, on May 26, 1988.

Timothy P. Forte,

Acting Director, New England Region.

[FR Doc. 88–15058 Filed 6–30–88; 1:26 pm]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 87–AGL–7]

Control Zone Designation Revocation; Various Locations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to revoke the existing control zones designated for Ironwood, MI, Menominee, MI, and Manitowoc, WI. The weather reporting for these three airspace areas has been inadequate. The intended effect of this action is to raise the floor of controlled airspace from the surface to 700 feet above ground level at three locations. The basic requirements for retaining a control zone are: (1) A communications capability must exist to the surface of the airport and (2) hourly and special weather observations must be taken and reported to the air traffic control facility having jurisdiction of the controlled airspace. This action also cancels Airspace Docket No. 85–AGL–13.

EFFECTIVE DATE: 0901 UTC, October 20, 1988.

FOR FURTHER INFORMATION CONTACT: Harold G. Hale, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, May 26, 1987, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the control zone designations for the following locations: Ironwood, MI, Menominee, MI, and Manitowoc, WI (52 FR 19521).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The following comments to the proposal were received: Three letters were received regarding the revocation of the Manitowoc control zone airspace. All three letters requested an extension of time, in order to resolve unacceptable weather reporting, and to train observers for taking weather observations. The letters were from Manitowoc County Airport, Oil-Rite Corporation, and the Wisconsin Department of Transportation, Bureau of Aeronautics. One letter was received from Alliance Airlines requesting a delay in revoking the Manitowoc and Menominee designated areas until current weather reporting data could be obtained. One letter was received from the Michigan Aeronautics Commission requesting the action to revoke the Menominee and Ironwood control zones be delayed to allow for time to work with local airport users and sponsor to meet the weather observation reporting.

The FAA postponed action to revoke the designated airspace areas in order to allow time for correcting the weather reporting deficiencies and to conduct weather observation surveys. Deficiencies have not been corrected and recent surveys conducted disclosed that weather observation reporting is not sufficient enough to justify retention of the control zone designations.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in

Handbook 7400.6D dated January 4, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes the control zone designations for the following locations: Ironwood, MI, Menominee, MI, and Manitowoc, WI.

During the period May 3–9, 1988, Simmons Airlines provided only 85% of the minimum required weather observations for Gogebic Co. Airport at Ironwood, MI; and, Alliance Airlines provided only 62% and 64% for Menominee Co. Airport at Menominee, MI, and for Manitowoc Municipal Airport at Manitowoc, WI, respectively. Past records further indicate that for the three identified locations weather observations have to varying degrees been irregular, inadequate and/or totally missing. It is therefore concluded that the weather reporting at the locations identified is unacceptable for retention of the designated, airspace status; the control zone designations should be revoked; and, aeronautical charts should be amended to reflect the revocations.

The FAA has determined that this proposed 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, when promulgated, 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, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

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

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Ironwood, MI [Revoked]

Menominee, MI [Revoked]

Manitowoc, WI [Revoked]

Issued in Des Plaines, Illinois, on June 21, 1988.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 88–15057 Filed 7–5–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 88–AWP–2]

Revision to Glendale, AZ, and Phoenix-Luke AFB, AZ, Control Zones

AGENCY: Federal Aviation Administation (FAA), DOT.

ACTION: Final rule.

SUMMARY: The Glendale, AZ, and Phoenix-Luke AFB, AZ, control zones share a common boundary. This action revises the description of the Glendale, AZ, control zone and corrects the common boundary coordinates. Adjustments to these coordinates are minor and range up to a maximum of 13″.

This action also revises the description of the Phoenix-Luke AFB, AZ, control zone to include the coordinates for the common boundary between the Phoenix-Luke AFB, AZ, and Glendale, AZ, control zones. The present description excludes "that portion within the Glendale control zone." However, the Glendale control zone is a part time control zone and does not exist during certain periods when the Phoenix-Luke AFB control zone is activated.

EFFECTIVE DATE: 0901 U.t.c., August 25, 1988.

FOR FURTHER INFORMATION CONTACT: Daniel K. Martin, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (213) 297–1642.

SUPPLEMENTARY INFORMATION:

The Rule

These amendments to Part 71 of the Federal Aviation Regulations revise the description of the Glendale, AZ, control zone to include the correct coordinates for the common boundary between the Glendale, AZ, and the Phoenix-Luke AFB, AZ, control zones and revise the description of the Phoenix-Luke AFB control zone to include the common boundary coordinates in the description. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because these actions are minor amendments in which the public would not be particularly interested. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

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, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as amended (52 FR 31384), is further 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; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Glendale, AZ [Revised]

Within a 3-mile radius of Glendale Municipal Airport (lat. 33°31'38"N., long. 112°17'40"W.) excluding that portion west of a line beginning at lat. 33°34'01"N. long. 112°16'23"W. to lat. 33°33'13"N., long 112°17'55"W. to lat 33°29'29"N., long. 112°19'26"W. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will

thereafter be continuously published in the Airport/Facility Directory.

Phoenix-Luke AFB, AZ [Revised]

Within a 5-mile radius of Luke AFB (lat. 33°32'06"N., long. 122°22'56"W.); within 2 miles each side of the Luke TACAN 058° radial, extending from the 5-mile radius zone to 6 miles northeast of the TACAN; and within 2 miles each side of the Luke TACAN 209° radial, extending from the 5-mile radius zone to 6.5 miles southwest of the Luke TACAN; excluding that portion east of a line beginning at lat. 33°34'01"N., long 112°16'23"W. to lat. 33°33'13"N., long. 112°17'55"W. to lat 33°29'29"N., long 112°19'26"W. thence counter clockwise via a 3-mile radius circle of Glendale Municipal Airport (lat. 33°31'38"N., long. 112°17'40"W.) to the 5-mile radius zone. This control zone is effective from 0600 to 0000 hours local time daily, or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Los Angeles, California, on June 17, 1988.

Jacqueline L. Smith,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 88-15056 Filed 7-5-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 87-ANM-20]

Establishment of Restricted Area R-2602, Colorado Springs, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Restricted Area R-2602 near Colorado Springs, CO, to provide restricted airspace around an automated remote tracking system satellite communications antenna which poses a radiation hazard to aircraft carrying electroexplosive devices.

EFFECTIVE DATE: 0901 UTC, August 25, 1988.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, 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) 267-9253.

SUPPLEMENTARY INFORMATION:

History

On April 5, 1988, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to establish Restricted Area R-2602 near Colorado Springs, CO (53 FR 11102). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.26 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations establishes Restricted Area R-2602 at the site of an automated remote tracking system satellite communications antenna operated by the United States Air Force. It has been determined that operation of this antenna poses a radiation hazard to aircraft in flight which are carrying electroexplosive devices. This amendment provides for aircraft separation from the hazard zone.

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 73

Aviation safety, Restricted areas.

Adoption of The Amendment

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.26 [Amended]

2. Section 73.26 is amended as follows:

R-2602 Colorado Springs, CO [New]

Boundaries. Beginning at lat. 38°48'35"N., long. 104°32'03"W.; to lat. 38°48'35"N., long. 104°30'57"W.; to lat. 38°47'43"N., long. 104°30'56"W.; to lat. 38°47'43"N., long. 104°32'02"W.; to the point of beginning.

Designated altitudes. Surface to 1,000 feet AGL.

Time of designation. Continuous.

Controlling agency. FAA, Denver ARTCC.

Using agency. USAF, Air Force Space Command, 2nd Space Wing, Falcon Air Force Station, CO.

Issued in Washington, DC, on June 28, 1988.

Temple H. Johnson Jr.,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88-15061 Filed 7-5-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 87-AGL-29]

Alteration of Restricted Areas R-5503A and R-5503B, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action realigns Restricted Areas R-5503A and R-5503B near Wilmington, OH, by moving the areas slightly to the south and east in order to enhance access to the national airspace system for local aviation users. This action constitutes a refinement of a previous relocation of these areas which provided additional airspace in the vicinity of Federal Airway V-5 to accommodate a major expansion of air carrier operations of Greater Cincinnati Airport.

EFFECTIVE DATE: 0901 U.t.c., August 25, 1988.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, 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) 267-9253.

SUPPLEMENTARY INFORMATION:

History

On March 8, 1988, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to realign Restricted Areas R-5503A and R-5503B near Wilmington, OH (53 FR 7378). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Thirty responses were received of which 27 commenters supported the proposal. Three commenters objected to portions of the proposal and/or offered alternative suggestions.

Discussion of Comments

The Aircraft Owners and Pilots Association (AOPA), the Ohio Sport Aviation Association and the Ohio Department of Transportation (DOT) all commented that the boundaries of R-5503A and R-5503B should be realigned with ground references easily identifiable in flight. The Ohio DOT further suggested that the eastern boundary of the area should parallel the 360° radial of the York VORTAC. The preferred method for defining the horizontal limits of special use airspace is the selection of reference points which are easily discernible from the air. Selection of distinct landmarks to define the boundaries of R-5503A and R-5503B was considered during the design of this alteration. In order to maintain the minimum size restricted area that would meet military requirements, and due to the nature of the geographical features in the area, it was not possible to place the boundaries along specific features in this case. Alignment of the eastern boundary along the closest natural landmarks, i.e., U.S. Route 23 and the Scioto River, would have required a reduction in the size of the restricted areas below the minimum required by the military.

On April 9, 1987, R-5503 was relocated to the east to make additional airspace available along Federal Airway V-5 to accommodate expanded air carrier operations at Greater Cincinnati Airport (52 FR 5077). Therefore, a westward movement of the boundaries was not acceptable. The boundaries described herein were determined to have the least en route impact by keeping the restricted airspace clear of airways in the area bounded by Federal Airways V-5, V-128 and V-493.

AOPA and Ohio Sport Aviation Association recommended that the northern boundary of the Brush Creek Military Operations Area, which underlies R-5503A, be relocated so as to coincide with the northern boundary of R-5503A. Although not the subject of this docket action, this suggestion has merit and is scheduled for further study.

Ohio DOT suggested that the floor of R-5503A be raised, preferably to 8,000 feet MSL. Due to current user requirements, a reduction in vertical limits of the restricted area was determined to be unfeasible at this time.

A commenter proposed that the York or Newcomb VORTAC be relocated to enable the displacement of Federal Airway V-493 by approximately 10 nautical miles from the eastern boundary of R-5503A to provide additional separation from R-5503A for VFR pilots navigating along the airway. Federal Airway V-493 was realigned in a previous action (Docket 86-AGL-20, 52 FR 4893) to ensure lateral separation from R-5503A. Since this action maintains lateral separation between R-5503A and V-493, relocation of VORTACs is not required.

Another commenter expressed concern that the proximity of the western boundary of R-5503B to Federal Airway V-5 may place an unnecessary burden on civil aviation. In addition, the commenter had received reports that air traffic controllers currently route civil air traffic so as to provide a 20-mile buffer along the western boundary of R-5503A. This practice reportedly was a result of the excessive military aircraft spill-outs from R-5503A. Military aircraft spill-outs are a reportable incident. A review of records revealed six spill-outs during the past three years. This is not an excessive figure considering the overall useage of this area. The lowest altitude designated for R-5503B is Flight Level 240 which is well above the ceiling of V-5. At its closest point, the western boundary of R-5503A is 12 nautical miles from the centerline of V-5. This provides sufficient distance between the airway and the restricted area. In addition, the Indianapolis Air Route Traffic Control Center Quality Assurance Staff reported that aircraft are not routinely vectored to maintain 20-mile separation from the restricted area as alleged.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.55 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations shifts the boundaries of Restricted Areas R-5503A and R-5503B several miles to the south and east to enhance access to the national airspace system for local aviation users.

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 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.55 [Amended]

2. Section 73.55 is amended as follows:

R-5503A Wilmington, OH [Amended]

By removing the present boundaries and substituting the following boundaries.

Beginning at lat. 38°54'40" N., long. 83°54'45" W.; to lat. 39°10'45" N., long. 83°53'00" W.; to lat. 39°27'45" N., long. 83°23'00" W.; to lat. 39°24'20" N., long. 82°49'30" W.; to lat. 39°18'00" N., long. 82°44'15" W.; to lat. 38°58'45" N., long. 82°50'00" W.; to lat. 38°47'00" N., long. 82°58'45" W.; to lat. 38°46'20" N., long. 83°14'20" W.; to lat. 38°52'15" N., long. 83°34'00" W.; thence to the point of beginning.

R-5503B Wilmington, OH [Amended]

By removing the present boundaries and substituting the following boundaries.

Beginning at lat. 38°54'40" N., long. 83°54'45" W.; to lat. 38°59'00" N., long. 84°05'00" W.; to lat. 39°16'00" N., long. 84°05'00" W.; to lat. 39°29'20" N., long. 83°41'00" W.; to lat. 39°27'45" N., long. 83°23'00" W.; to lat. 39°10'45" N., long. 83°53'00" W.; thence to point of beginning.

Issued in Washington, DC, on June 28, 1988.

Shelomo Wugalter,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 88-15060 Filed 7-5-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 385

[Docket No. 70636-7136]

Foreign Policy Controls on Exports of Chemicals to Iran, Iraq, and Syria; Clarifications

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: On July 31, 1987, Commerce published regulations in the Federal Register (52 FR 28550) that imposed foreign policy controls on the export of eight chemicals to Iran, Iraq and Syria and on the export of five chemicals to all destinations except 18 industrialized nations (Australia, Belgium, Canada, Denmark, France, the Federal Republic of Germany, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, and the United Kingdom). Those regulations amended § 385.4 and the Commodity Control List (15 CFR 399.1, Supplement No. 1) to reflect the expanded foreign policy controls on the eight chemicals (N,N-diisopropylaminoethane-2-thiol; N,N-diisopropylaminoethyl-2-chloride; dimethyl phosphite (dimethyl hydrogen phosphite); 3-hydroxy-1-methylpiperidine; phosphorus trichloride; 3-quinuclidinol; thionyl chloride; and trimethyl phosphite). However, only the Commodity Control List (CCL) was amended with regard to the five chemicals (dimethyl methylphosphonate, methyl phosphonyldichloride, methyl phosphonyldifluoride; phosphorus oxychloride; and thiodiglycol) that were controlled to all destinations except 18 industrialized nations.

This Rule revises paragraph (e) of § 385.4 to include those chemicals that were inadvertently omitted by the July regulations and to recodify the paragraph for the sake of clarification. The Export Control Commodity Numbers (ECCNs) for the chemicals are added for the convenience of the reader.

EFFECTIVE DATE: July 31, 1987.

FOR FURTHER INFORMATION CONTACT: Jim Seevaratnam, Capital Goods Technology Center, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-4777.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule mentions a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection of information has been approved by the Office of Management and Budget under control number 0625-0001.

5. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Joan Maguire, Regulations Branch, Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 385

Communist countries, Exports.

Accordingly, Part 385 of the Export Administration Regulations (15 CFR Parts 368-399) is amended as follows:

PART 385—[AMENDED]

1. The authority citation for 15 CFR Part 385 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

2. Paragraph (e)(1) is revised to read as set forth below; paragraph (e)(2) of § 385.4 is redesignated as paragraph (e)(6) and new paragraphs (e)(2) through (5) are added to read as follows:

§ 385.4 Country Groups T & V.

* * * * *

(e) *Iran, Iraq, and Syria.* In support of U.S. foreign policy, and particularly the U.S. policies of opposing the use of chemical weapons, maintaining U.S. neutrality in the Iran/Iraq war and promoting a mediated end to that war, an individual validated license is required to export from the United States to Iran, Iraq, or Syria the following chemicals, listed by ECCN classification:

(i) ECCN 4707B: Dimethyl phosphite (dimethyl hydrogen phosphite); methyl phosphonyldichloride; 3-quinuclidinol;

(ii) ECCN 4798B: Dimethyl methylphosphonate; methyl phosphonyldifluoride; phosphorous oxychloride; thiodiglycol;

(iii) ECCN 5799C: N,N-diisopropylaminoethane-2-thiol; N,N-diisopropylaminoethyl-2-chloride; dimethylamine hydrochloride; 3-hydroxy-1-methylpiperidine; trimethyl phosphite;

(iv) ECCN 6799G: Dimethylamine; ethylene chlorohydrin (chloroethanol); phosphorous trichloride; potassium fluoride; thionyl chloride.

(2) Unless the criteria stated in paragraph (e)(3) or (4) of this section are met, applications to export the chemicals listed in paragraphs (e)(l)(i)-(iv) of this section will generally be denied where there is reason to believe that those chemicals will be used in producing chemical weapons or will otherwise be devoted to chemical warfare purposes.

(3) Applications to export the following chemicals, listed by ECCN number, to Syria, in performance of a contract entered into before April 28, 1986, generally will be approved:

(i) ECCN 4798B: Dimethyl methylphosphonate; methyl phosphonyldifluoride; phosphorous oxychloride; thiodiglycol;

(ii) ECCN 5799C: Dimethylamine hydrochloride;

(iii) ECCN 6799G: Dimethylamine; ethylene chlrohydrin (choloroethanol); potassium fluoride.

(4) Applications to export the following chemicals, listed by ECCN number, to Iran, Iraq, or Syria, in performance of a contract or agreement entered into before July 6, 1987, will generally be approved:

(i) ECCN 4707B: Dimethyl phosphite (dimethyl hydrogen phosphite); methyl phosphonyldichloride; 3-quinuclidinol;

(ii) ECCN 5799C: N,N-diisopropylaminoethane-2-thiol; N,N-diisopropylaminoethyl-2-chloride; 3-hydroxy-l-methylpiperidine; trimethyl phosphite;

(iii) ECCN 6799G: Phosphorous trichloride; thionyl chloride.

(5) The reexport provisions of Part 374 and the provisions of § 376.12 are not applicable to the foreign policy controls covered by paragraph (e) of this section. However, the export of these commodities from the United States to any destination with knowledge that they will be reexported, directly or indirectly, in whole or in part, to Iran, Iray or Syria is prohibited without a validated license.

Dated: June 21, 1988.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 88-15127 Filed 7-5-88; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. N-88-1776; FR-2495]

Section 8 Housing Assistance Payments Program; Fair Market Rents for New Construction and Substantial Rehabilitation—Rome, GA; Special Revision

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

ACTION: Final notice.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to establish Fair Market Rents (FMRs) periodically, but not less frequently than annually. This document establishes new Fair Market Rents for the Rome market area in the State of Georgia. These rents are necessary to provide fair market rents more comparable to market rents for new construction in this market area.

EFFECTIVE DATE: July 6, 1988.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Chief Appraiser, Valuation Branch, Technical Support Division, Office of Insured Multifamily Housing Development, 451 Seventh Street SW., Washington, DC 20410-0500. Telephone (202) 426-7624. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (the Act) authorizes a system of housing assistance payments to aid lower income families in renting decent, safe, and sanitary housing. These programs, known collectively as the Section 8 Housing Assistance Payments Program, provide assistance payments for lower income families for a variety of housing options, including new construction and substantial rehabilitation.

Under these programs, HUD or public housing agencies (PHAs) make rental assistance payments on behalf of eligible families to owners. When families lease an eligible unit, the housing assistance payment is made and is based upon the difference between the total housing expense and the total family contribution. Initial contract rents, plus an allowance for utilities generally may not exceed area-wide Fair Market Rents (FMRs) established by the Department. FMRs are based primarily on the level of rentals paid for recently completed or newly constructed dwelling units of modest design within each market area as determined by HUD Field Office staff. In addition, for the FY 1986 Fair Market Rents previously promulgated by the Department (see the August 7, 1986 **Federal Register**, 51 FR 28486), these rents reflected the Department's cost containment efforts in relation to housing assistance provided in the Section 8 New Construction and Substantial Rehabilitation Programs.

This Document

This document announces a special revision to the entire Fiscal Year 1986 Fair Market Rent schedule applicable to the Rome, Georgia market area. The 1986 FMRs reflected data submitted by the Atlanta Office, as well as the cost containment efforts implemented for all 1986 New Construction and Substantial Rehabilitation Rents. While the data submitted by the field office was proper, it reflected comparables all built during the early 1970s because there has been no construction of modestly designed rental housing in the Rome market area for the past several years. (Moreover, the Rome market area experienced an economic decline during 1983 and 1984.) HUD's procedures, which are consistent with sound appraisal practices, permit the use of such comparables, which are then adjusted for all variables, including age. Further, where comparables do not exist, HUD procedures permit the use of an interpolation technique to arrive at indicated FMRs. Although the use of interpolation and adjustments to establish rents are sound principles and techniques, the best data for "market rents" would be that from recently constructed projects, as it would necessarily reflect current conditions in the marketplace with respect to financing, vacancy rates, etc., and would provide a degree of assurance that rents so derived should be adequate to support new projects, all factors being equal.

The HUD Field Office requested that the Department establish new rents for the Rome, Georgia market area. Careful analysis of this request and reanalysis of the 1986 FMRs for this market area indicate that the rents resulting from the application of the aforementioned techniques, when modified to reflect the Department's cost containment policies, are not adequate, even when it is clear that there has been compliance with the Department's cost containment guidelines with respect to project design. Therefore, an upward adjustment of the 1986 FMRs for this market area is needed. Accordingly, the Department proposed a revision of the entire 1986 schedule applicable to the Rome, Georgia market area in the **Federal Register** on March 28, 1988, and permitted a 30-day public comment period. No comments were received. Therefore, this notice establishes the FMRs which were proposed on March 28, 1988, as they are set forth below. The schedule's applicability is the same as set forth in the preamble to the original Fiscal Year 1986 schedule, published on August 7, 1986, at 51 FR 28486.

Other Information

HUD regulations in 24 CFR Part 50, implementing section 102(2)(c) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the FMRs established in this Notice are within the exclusion set forth in § 50.20(1), no environmental assessment is required, and no environmental finding has been prepared.

The Catalog of Federal Domestic Assistance Program number and title for the activities covered by this Notice are 14.156, Lower Income Housing Assistance Program (Section 8).

Accordingly, the following amendment to the 1986 Fair Market Rent schedule is announced and established for the Rome, Georgia market area:

SCHEDULE A—FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES' PROGRAMS)

[Region 4—Atlanta Regional Office Market: Rome]

Structure type	Number of bedrooms				
	0	1	2	3	4+
Detached			442	515	555
Semi-Detached/Row	307	333	384	456	510
Walkup	295	320	379	443	496
Elevator 2-4 STY	320	345	404		
Elevator 5+ STY	381	400	460		

Dated: June 24, 1988.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 88-15147 Filed 7-5-88; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 51

[Order No. 1284-88]

Voting Rights Act of 1965; Procedural Amendments

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This amendment indicates that the Department of Justice has received approval from the Office of Management and Budget pursuant to the Paperwork Reduction Act for the continuation of the collection of information requirements contained in the Procedures for the Administration of section 5 of the Voting Rights Act of 1965, as Amended.

EFFECTIVE DATE: July 6, 1988.

FOR FURTHER INFORMATION CONTACT: David H. Hunter, Attorney, Voting Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66128, Washington, DC 20035-6128, 202-724-5898, or Larry E. Miesse, Department of Justice Clearance Officer, Justice Management Division, U.S. Department of Justice, Washington, DC 20530, 202-633-4312.

SUPPLEMENTARY INFORMATION: This amendment reflects neither a substantive nor a procedural change in the administration of section 5 of the Voting Rights Act, 42 U.S.C. 1973c, but merely the renewal of authority under the Paperwork Reduction Act, 44 U.S.C. Chapter 35. That authority has been extended from February 29, 1988 to February 28, 1991.

Accordingly, 28 CFR Part 51 is amended as set forth below.

PART 51—[AMENDED]

1. The authority citation for Part 51 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510; and 42 U.S.C. 1973c.

§ 51.26 [Amended]

2. Section 51.26(g) is amended by removing the words "29, 1988" and inserting in their place the words "28, 1991".

Edwin Meese III,

Attorney General.

Dated: June 24, 1988.

[FR Doc. 88-15079 Filed 7-5-88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8-R, Amdt. No. 10]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Modification of Payment Limitation for Multiple Surgical Procedures

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule implements the proposed amendment of rule which was published on March 11, 1987 (52 FR 7453). It revises the comprehensive CHAMPUS regulation, DoD 6010.8-R (32 CFR Part 199), pertaining to payment for multiple surgical procedures performed during the same operative session. This amendment allows payment for second and subsequent surgical procedures at fifty (50) percent of the CHAMPUS-determined allowable charge, whether or not the second and subsequent procedures are related—i.e., performed through the same surgical opening—to the first procedures.

EFFECTIVE DATE: This amendment is effective August 5, 1988.

ADDRESS: Office of the Civilian Health and Medical Program of the Uniformed Services, (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900.

FOR FURTHER INFORMATION CONTACT: Stephen E. Isaacson, Office of Program Development, OCHAMPUS, telephone (303) 361-4005.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7834, appearing in the **Federal Register** on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title. 32 CFR Part 199 (DoD 6010.8-R) was reissued in the **Federal Register** on July 1, 1986 (51 FR 24008).

On March 11, 1987, we published a proposed amendment of rule to modify the CHAMPUS reimbursement policy for multiple surgical procedures performed during the same operative session. We received no comments regarding our proposed rule. This final rule announces our intention to implement those changes we proposed.

Section 199.4(c)(3)(i)(A) of 32 CFR currently prohibits payment for second and subsequent surgical procedures in many cases. This amendment eliminates that restriction and allows payment for second and subsequent surgical procedures at fifty (50) percent of the CHAMPUS determined allowable charge. There are exceptions to this policy related to procedures involving the fingers and toes and to incidental procedures. We refer the reader to the proposed rule for a more detailed explanation of this change.

Executive Order 12291 requires that a regulatory impact analysis be performed on any major rule. A "major rule" is defined as one which would:

Result in annual effect on the national economy of $100 million or more;

Result in a major increase in costs or prices for consumers, any industries, any government agencies, or any geographic regions; or

Have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or import markets.

We do not consider this proposed rule to be a major rule under Executive Order 12291, and for this reason, we believe it is unnecessary to prepare or publish a regulatory impact analysis.

Section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility

analysis when the agency issues regulations which would have a significant impact on a substantial number of small entities. The Secretary certifies, pursuant to section 605(b) of Title 5, United States Code, enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this regulation amendment will not have a significant economic impact on a substantial number of small businesses, organizations or government jurisdictions.

This final rule does not impose information collection requirements. Therefore, it does not need to be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1960 (44 U.S.C. 3501–3511).

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

Accordingly, 32 CFR Part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

§ 199.4 [Amended]

2. Section 199.4 is amended by revising paragraph (c)(3)(i) to read as follows:

* * * * *

(c) * * *

(3) * * *

(i) *Multiple Surgery.* In cases of multiple surgical procedures performed during the same operative session, benefits shall be extended as follows:

(A) One hundred (100) percent of the CHAMPUS-determined allowable charge for the major surgical procedure (the procedure for which the greatest amount is payable under the applicable reimbursement method); and

(B) Fifty (50) percent of the CHAMPUS-determined allowable charge for each of the other surgical procedures;

(C) Except that:

(*1*) If the multiple surgical procedures involve the fingers or toes, benefits for the first surgical procedure shall be at one hundred (100) percent of the CHAMPUS-determined allowable charge; the second procedure at fifty (50) percent; and the third and subsequent procedures at twenty-five (25) percent.

(*2*) If the multiple surgical procedures include an incidental procedure, no benefits shall be allowed for the incidental procedure.

(*3*) If the multiple surgical procedures involve specific procedures identified by the Director, OCHAMPUS, benefits shall be limited as set forth in CHAMPUS instructions.

* * * * *

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

June 30, 1988.

[FR Doc. 88–15102 Filed 7–5–88; 8:45 am]

BILLING CODE 3810–01–M

SELECTIVE SERVICE SYSTEM

32 CFR Part 1636

Selective Service Regulations; Registrant Processing

AGENCY: Selective Service System.

ACTION: Final rule.

SUMMARY: Procedures for the processing of registrants under the Military Selective Service Act (50 U.S.C. App. 451 *et seq.*) are revised to assure greater fairness and efficiency in administration in the processing of registrants.

EFFECTIVE DATE: July 6, 1988.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, DC 20435, Phone (202) 724–1167.

SUPPLEMENTARY INFORMATION: This amendment to Selective Service Regulations is published pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)) and Executive Order 11623. This regulation implements the Military Selective Service Act (50 U.S.C. App. 451 *et seq.*).

Analysis of Comments

The proposed amendment to Selective Service Regulations was published in the **Federal Register** on December 17, 1987 (52 FR 47949) for public comment. Six cards or letters of comment were received during the comment period which expired February 16, 1988. None of the cards or letters of comment received was from a person who claimed to be a registrant of the Selective Service System.

The one writer who objected to the proposal pointed out that the registrant may not know his beliefs sufficiently well to enable him to identify the appropriate classification to request. This is not a substantial objection.

Determinations

As required by Executive Order 12291, I have determined that this regulation is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), I have determined that this regulation does not have a significant economic impact on a substantial number of small entities.

As required by Executive Order 12612, I have determined that this regulation has no federalism implication.

Certificate

Whereas, on December 17, 1987, the Acting Director of Selective Service published a Notice of Proposed Amendments of Selective Service Regulations at 52 FR 47949; and whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. 463(b)) in that more than 30 days have elapsed subsequent to such publication during which period comments from the public (summarized above) have been received and considered; and I certify that I have requested the view of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. section 451 *et seq.*) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, as hereby amended, as stated below.

List of Subjects in 32 CFR Part 1636

Armed Forces—draft, Selective Service System.

Dated: June 23, 1988.

Samuel K. Lessey, Jr.,

Director of Selective Service.

The regulation is:

PART 1636—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

1. The authority citation for Part 1636 continues to read as follows:

Authority: Military Selective Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

§ 1636.9 [Amended]

2. Section 1636.9 (c) and (d) is removed and reserved.

[FR Doc. 88–15186 Filed 7–5–88; 8:45 am]

BILLING CODE 8015–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3409-5; GA-010]

Approval and Promulgation of Implementation Plans; Georgia; Incinerator Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today, EPA approves a State Implementation Plan revision submitted by the State of Georgia. This revision amends Georgia's incinerator regulation by setting mass emission limits in place of concentration limits. This revision is necessary to correct inequities resulting from the correction of actual emission rates to 12% carbon dioxide for small industrial type incinerators.

DATES: This action will be effective on September 6, 1988, unless notice is received by August 5, 1988 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Georgia Department of Natural Resources, 205 Butler Street SE., Floyd Towers East, Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT: Gregg M. Worley, Air Programs Branch, EPA Region IV, at the above address and telephone number (404) 347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: The old Georgia Rule for Air Quality Control 391-3-1-.02(2)(c), "Incinerators," which set allowable particulate emission limits based on concentration per dry standard cubic foot of flue gas corrected to twelve (12) percent carbon dioxide (CO_2), was federally approved on August 20, 1976 (41 FR 35185).

The incinerator rule primarily affects commercial, institutional, and industrial incinerators with relatively low mass emission rates. The old rule excludes CO_2 produced from the combustion of auxiliary fuel in the incinerator. It was determined, though, that even with this exclusion, large corrections for CO_2 were often necessary and were particularly significant with incinerators burning waste with low carbon content or high water content. The end result was often noncompliance for an incinerator with a low emission rate.

In an attempt to correct the inequities resulting from the adjustment of actual emission rates to 12% CO_2, the incinerator rule was amended to incorporate mass emission limits in place of the concentration allowable limits. The Georgia Department of Natural Resources submitted to EPA changes to the Georgia State Implementation Plan (SIP) to provide for attainment of the ozone NAAQS in Atlanta and to assure visibility protection for Class I areas throughout Georgia on May 22, 1985. Also included in this submittal were changes to Georgia Rule 391-3-1-.02 Section (2) subsection (c), entitled "Incinerators."

The new mass emission allowable limits are not significantly different from the concentration allowable limits. A comparison of the old limits to the new limits, based on the criteria given in EPA's *Source Category Survey: Industrial Incinerators* (EPA-450/3-80-013, May 1980), shows a slight relaxation for charging rates of 50 tons per day or less from new sources. For existing sources, the comparison shows that the new limits are more stringent. New sources with charging rates greater than 50 tons per day are subject to NSPS under both the old rule and the new rule.

The maximum relaxation possible under the revised rule (occurring at a charging rate of 50 tons per day) would be on the order of 1.3 lb/hr. The maximum tightening possible under the revised rule (also occurring at a charging rate of 50 tons per day) would be on the order of 2.1 lb/hr. The majority of the incinerators, however, are in the range of 400 to 600 lb/hr charging capacity, where the change in emissions either way would be on the order of 0.2 lb/hr. In addition, the sections of the rule specifying opacity requirements, incinerator design and operating parameters have not been changed. Consequently, it is not anticipated that there will be any increase in actual emissions from these minor sources.

These facts, in conjunction with the low number of incinerators and actual emissions, convince EPA that there is little likelihood of any detrimental effect to the National Ambient Air Quality Standards. Therefore, Region IV's Air Programs Branch has determined that a modeling demonstration is not necessary for this rule to be approved. For more details on this action, the reader may examine a Technical Support Document at the EPA Regional Office whose address is listed above.

Relation to PM_{10}

The EPA revised the particulate matter standard on July 1, 1987 (52 FR 24634), and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with a nominal diameter of 10 micrometers or less (PM_{10}). However, at the State's option, EPA will continue to process TSP SIP revisions which were in process at the time the new PM_{10} standard was promulgated. In the policy published on July 1, 1987 (p. 24679, column 2), EPA stated that it would regard existing TSP SIP's as necessary interim particulate matter plans during the period preceding the approval of state plans specifically aimed at PM_{10}. If the TSP SIP revision is judged to include more stringent provisions than are in the existing TSP plan, EPA's general policy would be to approve it. It is EPA's judgment that the regulation in this action would increase the stringency of the TSP plan and would therefore likely result in better control of PM_{10} as well.

Final Action

EPA is approving Georgia's SIP revision for their incinerator regulation.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective September 6, 1988 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that the action will be effective September 6, 1988.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 6, 1988. This action may not be challenged later in

proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

Note.—Incorporation by reference of the Georgia State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

Dated: June 28, 1988.

A. James Barnes,

Acting Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

Subpart L—Georgia

2. Section 52.570 is amended by adding paragraph (c)(35) to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(35) A revised subsection (2)(c), "Incinerators," of rule 391–3–1–02 was submitted by the Georgia Department of Natural Resources on May 22, 1985.

(i) Incorporation by reference.

(A) Letter of May 22, 1985, from the Georgia Department of Natural Resources and revised subsection (2)(c) of rule 391–3–1–.02, titled "Incinerators," adopted by the Georgia Board of Natural Resources on May 1, 1985.

(ii) Additional material—none.

[FR Doc. 88–15099 Filed 7–5–88; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[FRL–3409–4; TN–060]

Approval and Promulgation of Implementation Plans; Tennessee; Revisions to the SIP

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Today, EPA approves as State Implementation Plan revisions Tennessee Air Pollution Control Board Orders 10–87 and 15–87. These Board Orders revise the Prevention of Significant Deterioration (PSD) regulations of the State of Tennessee and Nashville/Davidson County to incorporate EPA's new modeling guideline.

DATE: This action will be effective on September 6, 1988, unless notice is received by August 5, 1988 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, 401 M Street SW., Washington, DC 20460

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Division of Air Pollution Control, Tennessee Department of Health and Environment, Customs House, 4th Floor, 701 Broadway, Nashville, Tennessee 37219.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalyn D. Hughes, Air Programs Branch, EPA Region IV, at the above address and telephone number (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: The Clean Air Act (Act) requires the Administrator to adopt regulations which specify with reasonable particularity the models to be used to comply with the Act's Prevention of Significant Deterioration (PSD) requirements. To carry out these requirements, specified in section 165(e)(3)(D) of the Act, the 1978 EPA guideline document, "Guideline on Air Quality Models," was incorporated by reference in 40 CFR 51.166 (formerly 51.24) and 40 CFR 52.21. The State of Tennessee and Nashville/Davidson County have incorporated this guideline in their PSD regulations.

On September 9, 1986 (51 FR 32176), EPA promulgated amendments to 51.166 and 52.21 to substitute by reference the "Guideline on Air Quality Models (Revised)," EPA 450/2–78–027R, in these regulations. This change, which became effective October 9, 1986, means that all modeling done pursuant to EPA's PSD regulations at 40 CFR 52.21 must either comply with the 1986 version of the modeling guideline or be specifically approved by EPA; modeling done pursuant to the 1978 guidance may no longer be accepted. It also means that a State's PSD regulations approved by EPA pursuant to 40 CFR 51.166 must be revised to require the use of the revised guideline.

Since both Tennessee and Nashville/Davidson County have PSD permitting authority under the State Implementation Plan (SIP), which precludes the use of the revised modeling guideline, they had to remove the preclusion and include a reference to the revised modeling guideline. On August 13, 1987, the Tennessee Board of Air Pollution Control approved the change in modeling guideline for the State regulations and the Nashville/Davidson County regulations and the Board submitted the changes to EPA on January 6, 1988.

Also on January 6, 1988, EPA promulgated Supplement A to the 1986 modeling guideline (53 FR 392). The Tennessee PSD regulation is worded in such a way as to include any future revision or update to the modeling guideline. Therefore, the Tennessee PSD regulations do not need to be revised to specifically incorporate Supplement A. The Nashville/Davidson County PSD regulation, on the other hand, will need to be revised to incorporate Supplement A. Since the Nashville/Davidson County PSD regulation was adopted prior to January 6, 1988, the local agency has nine months after EPA's promulgation of Supplement A (until October 6, 1988) to revise its regulation to reflect the addition of Supplement A.

Final Action

Since Board Order 15–87, which revises the Tennessee PSD regulation, meets all current and future requirements for updates to the modeling guideline including the addition of Supplement A, it is hereby approved. Since Board Order 10–87, which updates the Nashville/Davidson County PSD regulation, meets the requirements of EPA's 1986 modeling guideline revision, it is hereby approved, even though it will have to be revised to include the addition of Supplement A. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 6, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Under 5 U.S.C. 605(b), I certify that these SIP revisions will not have a significant economic impact on a

substantial number of small entities. (See 46 FR 8709.)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Sulfur oxides.

Note.—Incorporation by reference of the State Implementation Plan for the State of Tennessee was approved by the Director of the Federal Register on July 1, 1982.

Date: June 28, 1988.

A. James Barnes,

Acting Administrator.

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

PART 52—[AMENDED]

Subpart RR—Tennessee

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2220 is amended by adding paragraph (c)(85) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(85) Board Orders 10–87 and 15–87, incorporating the Prevention of Significant Deterioration modeling guideline in the State of Tennessee and Nashville/Davidson County regulations, submitted on January 6, 1988 by the Tennessee Department of Health and Environment.

(i) Incorporation by reference.

(A) Board Order 10–87, revision to the Prevention of Significant Deterioration modeling guideline for the State of Tennessee, which was approved on August 13, 1987.

(B) Board Order 15–87, revision to the Prevention of Significant Deterioration modeling guideline for Nashville/Davidson County, which was approved on August 13, 1987.

(C) Letter of January 6, 1988 from the Tennessee Department of Health and Environment.

(ii) Other material—none.

[FR Doc. 88–15098 Filed 7–5–88; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 85 and 600

[FRL–3409–6]

Air Pollution Control; Importation of Nonconforming Motor Vehicles and Motor Vehicle Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reconsideration of final rule.

SUMMARY: EPA is exercising its discretion to reconsider portions of EPA regulations at 40 CFR 85.1501 *et seq.*, as amended on September 25, 1987 (52 FR 36136), which regulate the importation of nonconforming motor vehicles and nonconforming motor vehicle engines ("nonconforming vehicles"). EPA will also reconsider its revision of 40 CFR Part 600 as it relates to vehicles subject to today's action.

Today's action grants a petition for reconsideration of the revised imports regulations as they apply to importers of new Canadian vehicles which are identical in all material respects to U.S.-certified vehicles. EPA is also announcing a temporary conditional stay of the effectiveness of the new, revised imports regulations with respect to certain importers of such vehicles.

DATES: The conditional stay of the effectiveness of the revised imports regulations as they apply to the importers of certain vehicles specified above will commence on July 1, 1988 and last for a period of three months while EPA reconsiders the rule.

ADDRESS: A copy of the letter granting the petition for reconsideration and staying the effectiveness of the revised imports regulations for a period of three months (from July 1, 1988 to October 1, 1988) and other related documents are contained in Public Docket No. EN–79–9. The docket is located at the U.S. Environmental Protection Agency, Central Docket Section, Room 4 South, Washington Information Center, 401 M Street, SW., Washington, DC 20460. The docket may be inspected between the hours of 8:00 a.m. and 3:00 p.m. on weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services. Copies of the letter and related documents may also be obtained by contacting the person listed below.

FOR FURTHER INFORMATION CONTACT: Patrick Schlesinger, Attorney/Advisor, Manufacturers Programs Branch (202/382–2499). Manufacturers Operations Division (EN–340F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The regulations governing EPA's program providing for the importation of nonconforming vehicles were substantially revised on September 25, 1987. On November 24, 1987, Superior Auto Sales, Inc. (Superior) and Auburn Motors, Inc. (Auburn) petitioned EPA for administrative reconsideration of the revised final regulations as they would apply to importers of vehicles originally sold in Canada and purportedly identical to vehicles certified by EPA and sold in the United States. Among other issues raised by the petitioners, Superior and Auburn maintain that, although these vehicles are not labeled as meeting U.S. emissions requirements, these vehicles do not have to be mechanically modified to comply with such requirements and thus do not present air quality concerns similar to those presented by other imported nonconforming vehicles.

Although EPA does not necessarily agree with all of the arguments or assertions raised by Superior and Auburn in their petition for reconsideration, the Agency has concluded that several of the issues raised by the petitioners merit reconsideration. As stated earlier, a copy of the letter granting the petition with an explanation of the Agency's determination may be obtained from EPA as noted above.

In addition, during the reconsideration process, EPA will conditionally stay the effectiveness of the revised imports regulations, only as they apply to vehicles imported from Canada which are identical in all material respects to vehicles certified for sale in the United States, for a period of three months (July 1, 1988 to October 1, 1988). This limited, conditional stay will be applicable only to importers of such vehicles who expressly agree to certain conditions on importation. These conditions will ensure that such vehicles meet EPA emission standards when imported and during their use in the United States. A copy of the express conditions that importers of such vehicles must agree to in order to qualify for the stay may be obtained from EPA as noted above. Any importer or vehicle that does not meet these conditions will not be eligible for the stay and must comply with the revised final regulations as of July 1, 1988.

EPA has determined that this action does not constitute a major rule within the meaning of Executive Order 12291 since it is not likely to result in:

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

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

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

Accordingly, a Regulatory Impact Analysis is not being prepared for this action.

This action is also not a "rule" as defined in 5 U.S.C. 601(2) because EPA is not required to undergo "notice and comment" under section 553(b) of the Administrative Procedure Act, or any other law. Therefore, EPA has not prepared a supporting Regulatory Flexibility Analysis addressing the impact of this action on small business entities.

This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA and any EPA written response to those comments are available for public inspection at Public Docket EN–79–9 located in EPA's Central Docket Section (LE–131A), 401 M Street SW., Washington, DC 20460.

Dated: June 29, 1988.

A. James Barnes,

Acting Administrator.

[FR Doc. 88–15096 Filed 7–5–88; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59 and 60

[Docket No. FEMA–FIA]

National Flood Insurance Program; Elevation Requirements for Manufactured Homes in Existing Mobile Home Parks or Subdivisions; Suspension of Rule and Amendment of Rule With Request for Comments

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Modification of suspension of rule.

SUMMARY: This notice modifies a notice published in the Federal Register on June 30, 1987, (52 FR 24370). That notice suspended certain revisions to National Flood Insurance Program (NFIP) regulations which became effective on October 1, 1986, and restored prior provisions of the regulations through March 31, 1988. The suspended provisions required the elevation of manufactured homes placed or substantially improved in existing mobile home parks and subdivisions in special flood hazard areas. A subsequent notice published in the Federal Register on September 3, 1987 (52 FR 33410) modified that notice to suspend the subject regulation through September 30, 1988 to be consistent with the Supplemental Appropriations Act of 1987 (Pub. L. 100–71). This notice further extends the suspension of the revisions through July 31, 1989 to allow FEMA sufficient time to complete its analysis of the issue and any necessary rulemaking.

FOR FURTHER INFORMATION CONTACT: Michael F. Robinson, Federal Emergency Management Agency (FEMA), Federal Insurance Administration, 500 C Street SW., Washington, DC 20472; Telephone number (202) 646–2717.

SUPPLEMENTARY INFORMATION: On June 30, 1987, the Federal Emergency Management Agency (FEMA) published a notice in the Federal Register (52 FR 24370) which suspended until March 31, 1988, a portion of a revision to National Flood Insurance Program (NFIP) criteria which became effective on October 1, 1986. The portion of the revision that was suspended required the elevation of manufactured homes placed or substantially improved in existing mobile home parks and subdivisions (those established prior to the adoption of a community's floodplain management regulations). That notice provided for a public comment period which has since closed. Subsequent to this publication, the Supplemental Appropriations Act of 1987 (Pub. L. 100–71) was signed into law on July 11, 1987. This Act suspended the same provision through September 30, 1988. In order to make the June 30, 1987, notice consistent with the Supplemental Appropriations Act, FEMA published a notice in the Federal Register on September 3, 1987 (52 FR 33410) that modified the effective date of the suspension to read "through September 30, 1988". The September 3, 1987 notice also made several technical corrections to the June 30, 1988 notice.

Subsequent to the publication of the modification to the June 30, 1987 Federal Register notice it has become clear that there will be insufficient time for FEMA to thoroughly evaluate and report on the impacts of the October 1, 1986 rule revision, develop alternative actions for addressing the issue, and complete any necessary rulemaking. For this reason, FEMA is hereby modifying the June 30, 1987 Federal Register notice to extend the suspension of the provision through July 31, 1989 rather than through September 30, 1988.

Accordingly, in the "Suspension of Rule; Amendment of Rule with Request for Comments" (document 87–14527) beginning on page 24370 in the Federal Register of Tuesday, June 30, 1987, make the following modification:

Modification

1. On page 24370 in the first column under **EFFECTIVE DATE** change "until March 31, 1988" to read "through July 31, 1989".

* * * * *

Dated: June 9, 1988.

Harold T. Duryee,

Administrator Federal Insurance Administration.

[FR Doc. 88–15093 Filed 7–5–88; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–460; RM–5782]

Radio Broadcasting Services; Northport, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 264A to Northport, Alabama, as that community's first local broadcast service, in response to a petition for rule making filed on behalf of Northport Communications. The site coordinates utilized for Channel 264A are 33–13–31 and 87–38–35. With this action, the proceeding is terminated.

DATES: Effective August 15, 1988; The window period for filing applications on Channel 264A at Northport, Alabama, will open on August 16, 1988, and close on September 15, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–460, adopted June 7, 1988, and released June 29, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC.

The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Alabama, by adding Northport, Channel 264A.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–15157 Filed 7–5–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–437; RM–5842]

Radio Broadcasting Services; Selma and Union Springs, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 265C2 for Channel 265A at Selma, AL, and modifies the Class A license of Alexander Broadcasting Company for Station WALX(FM), as requested, to specify operation on the higher class channel, thereby providing that community with the second wide coverage area FM service. Additionally, Channel 231A is substituted for Channel 265A at Union Springs, AL, and the license of Montgomery Christian Radio, Inc. for Station WSFU–FM is modified accordingly to accommodate the Selma allotment.

Channel 265C2 can be allotted to Selma, AL, in conformity with the minimum distance separation requirements of § 73.207(b) of the Commission's Rules, with a site restriction 3.0 kilometers south. The reference coordinates utilized in this determination are 32–23–23 and 87–01–36. Moreover, Channel 231A can be allotted to Union Springs, consistent with our Rules, at the present transmitter site of Station WSFU–FM, the coordinates of which are 32–05–46 and 85–48–16. With this action, the proceeding is terminated.

EFFECTIVE DATE: August 15, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–437, adopted May 31, 1988, and released June 29, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Alabama, is amended by revising the entry for Selma by deleting Channel 265A and adding Channel 265C2, and by revising the entry for Union Springs by deleting Channel 265A and adding Channel 231A.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–15159 Filed 7–5–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–445; RM–6007, RM–6193]

Radio Broadcasting Services; Pooler, GA and Hardeeville, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Benjamin M. Tucket, *et al.*, d/b/a Jessup Broadcasting Limited Partnership, substitutes Channel 266C2 for Channel 266A at Hardeeville, South Carolina, and modifies its permit for Station WWDR to specify the higher powered channel. Channel 266C2 can be allotted to Hardeeville in compliance with the Commission's minimum distance separation requirements with a site restriction of 30.2 kilometers (18.8 miles) southwest to avoid a short-spacing to Station WALD–FM, Channel 265A, Walterboro, South Carolina. The coordinates for this allotment are North Latitude 32–03–16 and West Longitude 81–14–25. The counterproposal filed by Pooler Broadcasters requesting the allotment of Channel 263A to Pooler, Georgia, was dismissed at the request of the counterproponent. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 12, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–445, adopted May 13, 1988, and released June 27, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Hardeeville, South Carolina, is revised by deleting Channel 266A and adding Channel 266C2.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–15173 Filed 7–5–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–278; RM–5714]

Radio Broadcasting Services; Agana, GU

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 270C2 to Agana, Guam, as its fifth FM service, at the request of Serafin M. Dela Cruz. With this action, this proceeding is terminated.

DATES: Effective August 12, 1988; The window period for filing applications on Channel 270C2 will open on August 15, 1988, and close on September 14, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–278, adopted May 17, 1988, and released June 28, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, in the entry for Agana, Guam, Channel 270C2 is added.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–15158 Filed 7–5–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–113; RM–5163, RM–5198 & RM–5457]

Radio Broadcasting Services; California and Hollywood, MD and King George, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 275A to California, Maryland, as that community's first FM broadcast service. A *notice* was issued in response to three mutually exclusive petitions. The first was filed by Richard A. Myers seeking allocation of Channel 275A to Hollywood, Maryland. Tippity Whichity Communications Company requested the same channel be allocated to California, Maryland. King George Associates filed a counterproposal requesting the allotment of Channel 275A to King George, Virginia. The three communities are mutually exclusive and no other channel is available for any of the communities. California, Maryland (census designated place) with a population of 5,770, is a significantly larger community than Hollywood, Maryland, with a population of 300 or King George, Virginia, with a population of 200. The population figures were extracted from the 1985 Rand McNally Commercial Atlas and Marketing Guide. Based on population and service received, we have allocated Channel 275A to California, Maryland. The coordinates used for 275A at California are 38–20–48 and 76–34–06. With this action, this proceeding is terminated.

DATE: Effective August 15, 1988; The window period for filing applications will open on August 16, 1988, and close on September 15, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–113, adopted June 1, 1988, and released June 29, 1988. The full text of this Commission decision is availabe for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW. Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Maryland is amended by adding Channel 275A at California.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–15164 Filed 7–5–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–529; RM–6001]

Radio Broadcasting Services; Traverse City, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM channel 298A for Channel 221A at Traverse City, Michigan, in response to a petition filed by Fabiano-Strickler Communications, Inc. In accordance with section 316(a) of the Communications Act of 1934, as amended, we have modified the license of Station WCCW–FM to specify operation on Channel 298A in lieu of Channel 221A. The coordinates for Channel 298A are 44–46–11 and 85–41–22. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 12, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–529, adopted May 20, 1988, and released June 28, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Michigan is amended by deleting Channel 221A and adding Channel 298A at Traverse City.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–15169 Filed 7–5–88; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 87-457; RM-5874]

Radio Broadcasting Services; Whitehall, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 273A to Whitehall, Michigan in response to a petition filed by Pyramid Broadcasting, Inc. Petitioner filed comments reaffirming its interest in the channel. No other comments were received. Canadian concurrence has been obtained for the allotment of Channel 273A at Whitehall at coordinates 43-24-24 and 86-20-42. With this action, this proceeding is terminated.

DATES: Effective August 15, 1988; the window period for filing applications will open on August 16, 1988, and close on September 15, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-457, adopted May 25, 1988, and released June 29, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Michigan is amended by adding Channel 273A at Whitehall.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88-15156 Filed 7-5-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-16; RM-6109]

Radio Broadcasting Services; Waite Park, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 279A to Waite Park, Minnesota, as that community's first FM broadcast service, in response to a petition filed by Waite Park Broadcasting Company. The coordinates for Channel 279A at Waite Park are 45-33-18 and 94-13-36. With this action, this proceeding is terminated.

DATES: Effective August 15, 1988; The window period for filing applications will open on August 16, 1988, and close on September 15, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-16, adopted May 25, 1988, and released June 29, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Minnesota is amended by adding Channel 279A at Waite Park.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88-15160 Filed 7-5-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-458; RM-5901]

Radio Broadcasting Services; West Plains, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 273C2 for Channel 272A at West Plains, Missouri, in response to a petition filed by C M Broadcasting, Company. In accordance with § 1.420(g) of the Commission's Rules, we have also modified the license for Station KKDY-FM, West Plains, to specify operation on Channel 273C2 in lieu of Channel 272A, with a site restriction 5.5 kilometers southwest of West Plains. The coordinates used for Channel 273C2 are 36-43-03 and 91-54-38. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 12, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-458, adopted May 17, 1988, and released June 27, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Missouri is amended by deleting Channel 272A and adding 273C2 at West Plains.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88-15172 Filed 7-5-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-273; RM-5922]

Radio Broadcasting Services; Ormond-By-The-Sea, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 239A to Ormond-By-The-Sea, Florida, as its first FM channel at the request of Miller Management Group, Inc. Coordinates for Channel 239A are 29-20-48 and 81-04-00. With this action, this proceeding is terminated.

DATES: Effective August 15, 1988; the window period for filing applications will open on August 16, 1988, and close on September 15, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-273, adopted June 8, 1988, and released June 29, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M. Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida is amended by adding Channel 239A at Ormond-By-The-Sea.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88-15161 Filed 7-5-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-350; RM-5812 and RM-6145]

Radio Broadcasting Services; Millinocket and Lincoln, ME

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 235C2 for Channel 249A at Millinocket, Maine, in response to a petition filed by Katahdin Communications, Inc. We shall also modify the license of Station WSYY-FM to specify operation on Channel 235C2 in accordance with § 1.420(g) of the Rules, since no other party expressed an interest in the channel. Canadian concurrence has been obtained for this allotment. The coordinates for Channel 235C2 at Millinocket are 45-40-26 and 68-43-14. In response to a counterproposal filed in this proceeding by Con Brio Broadcasting, Inc., we shall allocate Channel 289C2 to Lincoln, Maine. In accordance with § 1.420(g) of the Rules we have also modified the license of Station WGUY-FM, to specify operation on Channel 289C2 in lieu of Channel 257A. Canadian concurrence has been obtained for the allotment of Channel 289C2 at Lincoln. The coordinates for Channel 289C2 are 45-20-34 and 68-30-25. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 15, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-350, adopted June 1, 1988, and released June 29, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Steet NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments is amended for Maine by removing Channel 249A at Millinocket and adding Channel 235C2, and by removing Channel 257A at Lincoln and adding Channel 289C2.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88-15163 Filed 7-5-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-13; RM-6110]

Radio Broadcasting Services; Paynesville, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 255C2 to Paynesville, Minnesota, as that community's first FM broadcast service, in response to a petition filed by Paynesville Broadcasting Company. The coordinates for Channel 255C2 at Paynesville are 45-22-48 and 94-42-48. With this action, this proceeding is terminated.

DATES: Effective August 12, 1988; the window period for filing applications will open on August 15, 1988, and close on September 14, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-13, adopted May 17, 1988, and released June 27, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Minnesota is amended by adding Channel 255C2 at Paynesville.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88-15155 Filed 7-5-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-156; RM-4938, RM-5403 and RM-5808]

Radio Broadcasting Services; Claremore, Locust Grove and Nowata, OK and Barling, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a petition for reconsideration filed by William R. Williams, Trustee in Bankruptcy, licensee of Station KNFB, Nowata, Oklahoma, and Moran Broadcasting Company, directed against the action in the *Report and Order* in this proceeding allotting Channel 233A to Claremore, Oklahoma. Specifically, this document allots Channel 264A to Claremore and Channel 233A to Locust Grove. The *Report and Order* had allotted Channel 233A to Claremore and Channel 264A to Locust Grove, and substituted Channel 233C2 in lieu of Channel 233A at Barling. In order to allot Channel 233A at Claremore, it was necessary for Station KNFB to relocate its transmitter site. Inasmuch as the present licensee of Station KNFB would not honor the earlier agreement to relocate its transmitter site, it was necessary to substitute Channel 264A in lieu of Channel 233A at Claremore in order to avoid a short-spacing with Station KNFB. The Commission affirms its policy of not requiring a station to involuntarily relocate its transmitter site. In this regard, the Commission also notes that any such agreement between the parties is not binding on the Commission and an aggrieved party may seek its remedy in a local forum. The Commission rejects arguments by the proponent of Channel 233A at Claremore concerning the preferability of the Channel 233A allotment and the timeliness of the petition for reconsideration. Finally, this document affords the applicants for the Claremore and Locust Grove allotments an opportunity to amend their applications to specify the new channel without loss of cut-off protection. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 15, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, MM Docket No. 85-156, adopted May 26, 1988, and released June 29, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Oklahoma by removing Channel 233A and adding Channel 264A at Claremore.

3. Section 73.202(b), the Table of FM Allotments, is amended under Oklahoma by removing Channel 264A and adding Channel 233A at Locust Grove.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-15162 Filed 7-5-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 85-08; Notice 2]

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This rule upgrades the safety belt requirements for new trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight rating of more than 10,000 pounds. Specifically, this rule:

1. Standardizes the buckle release mechanism for safety belts used in those vehicles;

2. Requires that the safety belts in these vehicles must be equipped either with an emergency locking retractor or with an automatic locking retractor that has certain features to prevent it from progressively tightening the belt around the wearer; and

3. Requires that retractors in these vehicles must be attached to the seat structure that moves, if the retractor is an automatic locking retractor and if the seat at which the safety belt system is installed has some type of suspension system for the seat.

These changes will make the safety belt systems in heavy vehicles more comfortable and convenient to use, which in turn should promote the use of safety belts in those vehicles. This rule will also assist drivers of those vehicles in complying with the Office of Motor Carrier Standards' regulation requiring safety belt use in trucks and buses engaged in interstate commerce and with the mandatory safety belt use laws being adopted by the States.

DATES: *Effective date:* The changes made in this rule become effective January 3, 1989. Vehicles manufactured on or after September 1, 1990, must be certified as complying with these changes.

Petitions for reconsideration: Any petitions for reconsideration of this rule must be received by NHTSA not later than August 5, 1988.

ADDRESS: Petitions for reconsideration of this rule should refer to the docket and notice number set forth at the beginning of this notice and should be submitted to: Administrator, NHTSA, 400 Seventh Street SW., Washington, DC 20590. It is requested, but not required, that 10 copies of the petition be submitted.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Chief, Crashworthiness Division, NRM-12, Room 5320, NHTSA, 400 Seventh Street SW., Washington, DC 20590 (202-366-2264).

SUPPLEMENTARY INFORMATION.

Background

Since January 1, 1972, Federal Motor Vehicle Safety Standard No. 208,

Occupant Crash Protection (49 CFR 571.208) has required vehicle manufacturers to install safety belt systems in heavy vehicles (i.e., trucks, buses, and multipurpose passenger vehicles (MPV's) with a gross vehicle weight rating of more than 10,000 pounds). The safety belts required in those vehicles have had to meet all of the strength requirements set for belt systems in passenger cars and light trucks, buses, and MPV's (those with a gross vehicle weight rating of 10,000 pounds or less). However, the safety belts required in heavy vehicles have not had to meet several requirements for lighter vehicle safety belt systems that make the safety belts easier to use.

There are substantial data showing that occupants of heavy vehicles, particularly heavy trucks, face a significant risk of death and injury in vehicle crashes. For instance, there are approximately 1000 deaths annually of heavy vehicle occupants (*Heavy Truck Safety Study*, DOT HS 807 109). Total or partial ejections, which could be substantially reduced by increased safety belt usage, accounted for about 30 percent of all the heavy vehicle fatalities. The agency estimates that about 43,000 injuries occur in heavy vehicles annually (*Heavy Truck Safety Study*, DOT HS 807 109).

A study entitled "Heavy Truck Occupant Protection" (DOT–HS–806–368) has found that impacts with the steering wheel assembly, as well as ejection and entrapment, are the primary sources of injuries and fatalities to drivers of heavy trucks. This study concluded that safety belts could have reduced the severity of the injuries in as many as 40 to 60 percent of the crashes. Other research studies of heavy vehicle crashes, such as "Study of Heavy Truck Occupant Protection: Accident Data Analyses" (DOT–HS–806–426), have also recommended developing ways of improving safety belt usage in heavy vehicles as a means of improving occupant safety in those vehicles.

Surveys of belt usage among heavy truck drivers have found usage to be as low as 6.2 percent, which is substantially below the national average for passenger car drivers. Surveys of heavy vehicle drivers have noted several behavioral and vehicle design-related reasons for low belt use among heavy truck drivers. Results of any analysis by the Transportation System Center in 1983 of surveys conducted by the Private Truck Council of America and the International Brotherhood of Teamsters revealed that drivers were concerned about the cleanliness of safety belts as well as the design of the belt system. About 25 percent of those who reported that they did not use the safety belts cited dirty belts as the most important reason for non-use of the belts.

Belts in heavy vehicles were often too dirty to wear because most safety belts in heavy vehicles on the road today are not equipped with retractors. Absent a retractor, the belts can dangle from the seat, become tangled in the seat structure, and become soiled with dirt and grease on the vehicle's floor. Properly working retractors would eliminate these problems.

By way of contrast, a survey by ADTECH (Contract DTNH 22–81–C–07075) found that 75 percent of the United Parcel Service (UPS) drivers who were observed for the survey were wearing their safety belts. UPS has a company policy requiring drivers to wear their belts, under penalty of company-imposed sanctions for failure to do so. UPS also equips its trucks with an upgraded safety belt system that includes retractors mounted on the seat pan and stand-up buckles for easy one-handed operation. The combination of company policy and improved belt systems resulted in very high belt usage.

Notice of Proposed Rulemaking

The agency proposed several changes to the requirements for belt systems in heavy vehicles in a notice of proposed rulemaking (NPRM) published on May 30, 1985 (50 FR 23041). First, that notice proposed that emergency locking retractors (ELR's) be at each outboard seating position in heavy trucks and MPV's and at the driver's seat in heavy buses. Retractors ensure that the belts will not experience cleanliness problems and help ensure that the belts will be readily accessible to vehicle occupants. With respect to the type of retractor, the notice proposed to require ELR's, because they are already required in passenger cars (*see* 46 FR 2064; January 8, 1981). This requirement was specified primarily because ELR's permit more freedom of movement than do automatic locking retractors (ALR's). NHTSA tentatively concluded that the proposed requirement for ELR's in heavy vehicles would avoid the typical problems posed for belt occupants by ALR's. With current designs of ALR's, the safety belt "cinches down" (becomes progressively tighter) around an occupant as the vehicle travels over potholes or other jarring surfaces of the road. This "cinching down" effect can discourage continued belt use. To provide the maximum benefits, the notice proposed to also require that ELR's be mounted to the seat frame above any air suspension mechanism used in the vehicle seat.

Second, the notice proposed to require that heavy vehicles' belts have a standardized push button release, just as all safety belt systems in light vehicles are required to have a standardized push button release. Many heavy vehicles currently have flap-type releases such as are found on airplane safety belts. The NPRM explained that the flap-type releases are more susceptible to accidental opening during a crash or rollover, for example, by being caught in a sleeve. Additionally, if there is a need to extricate a belted driver from a vehicle after a crash, a standardized release mechanism would eliminate any potential confusion about how to release the safety belt. Accordingly, NHTSA tentatively concluded that safety belt use in heavy vehicles could be increased if the safety belt release mechanisms in heavy vehicles were the same as those in lighter vehicles.

Finally, the NPRM sought data from commenters to help the agency make a determination of whether to propose amending the anchorage strength requirements for heavy vehicles. Presently, safety belt anchorages in heavy vehicles are required to withstand a 5,000-pound load. However, the European Economic Community has amended its safety belt anchorage requirements downward, lowering them to a 1,517-pound load for lap/shoulder belts and 2,495 pounds for lap belts. The NPRM asked for data from all interested parties on the effects of such a change in the United States driving environment.

The Comments and the Agency Response

The agency received 23 comments in response to this NPRM, all of which were considered in developing this final rule. The most significant points raised in the comments are addressed below, along with the agency's response to the comments. For the convenience of the reader, these issues are set forth in the same order they were presented in the NPRM.

1. Retractors

Five commenters supported the proposal to require ELR's on heavy vehicle safety belts. These commenters were the International Brotherhood of Teamsters (Teamsters), the American Petroleum Institute (API), the California Highway Patrol, the Insurance Institute for Highway Safety (IIHS), and Chrysler Corporation (Chrysler). Chrysler stated that it already equips all of its heavy vehicles with ELR's only.

On the other hand, 11 commenters objected to the proposal to require ELR's

in heavy vehicles. Navistar, formerly called International Harvester, stated that it agreed with the agency's proposal to increase belt usage in heavy vehicles by requiring that safety belts in those vehicles be equipped with retractors. However, Navistar stated its opinion that ELR's would not be acceptable for all heavy truck applications and stated that it installs primarily non-locking retractors (NLR's) in its heavy vehicles. Mack Trucks, Inc., Freightliner, and Volvo White offered comments that raised essentially the same points as Navistar's. Ford, the American Seat Belt Council (ASBC), and the Motor Vehicle Manufacturers Association (MVMA) commented that they agreed with the proposal to require retractors on heavy vehicle safety belts, but they did not support the proposal to specify ELR's. Ford, ASBC, and MVMA alleged that such a requirement would be unnecessarily design restrictive, especially when there are questions about the comfort of webbing-sensitive ELR's in some heavy truck applications. PACCAR also questioned the acceptability of ELR's in all heavy truck applications, and asserted that new designs of ALR's would alleviate the occupant comfort problems associated with older designs of ALR's

Indiana Mills & Manufacturing, Inc. (IMMI) commented that the proposed requirement for ELR's in heavy vehicles would present problems for the safety belts at the driver's seat in large school buses. Specifically, IMMI stated that two States (Washington and Illinois) currently require that *only* ALR's be installed on the safety belts for the driver's seat in school buses. These State requirements would be preempted if NHTSA were to require only ELR's in heavy vehicles. The National School Transportation Association (NSTA) stated that the May 1985 National Conference on School Transportation adopted a resolution supporting only ALR's for the safety belts installed at the driver's seat of large school buses. According to NSTA, the reasoning behind this action was that it is believed to be more important to keep the school bus driver in his or her seat at all times, to permit the driver to retain control of the vehicle, than to ensure the driver's comfort. Hence, NSTA opposed the proposal for ELR's to the extent that it would mandate ELR's for the driver's seat in school buses. The Blue Bird Body Company (Blue Bird), a school bus manufacturer, also opposed the proposed ELR requirement. Blue Bird stated that it currently provides NLR's as standard equipment and ALR's as optional equipment on the safety belts at the driver's position in large school buses. Blue Bird alleged that the primary function of the safety belts for the driver of school buses is to keep the driver in position at all times, and that ELR's might fail to achieve this purpose.

In response to these comments, NHTSA has thoroughly reexamined its proposed requirement for ELR's in heavy vehicles. The agency concludes that a requirement for safety belt retractors in these vehicles would be likely to increase safety belt usage, by keeping the belts clean and reasonably accessible. Therefore, this rule adds a requirement that the safety belts in such vehicles be equipped with retractors.

With respect to the issue of requiring a particular type of retractor, NHTSA had proposed that ELR's be required because those retractors are generally the most comfortable for belt occupants. In proposing that ELR's be required, the agency in effect proposed eliminating the NLR's that several commenters stated were standard equipment on their heavy vehicle safety belts. This proposal was based on the fact that NLR's must be snugly adjusted to provide adequate crash protection. Drivers of heavy trucks who are familiar with the ELR's in their family cars might not snugly adjust the belt in their heavy trucks, because that step is not necessary if the belt has an ELR. If this were to occur, any excess slack in the NLR belt would play out in a crash, potentially allowing the driver to move out of his or her seat and subjecting the driver to an increased risk of injury. To preclude such results, this final rule adopts the proposed prohibition of NLR's for the safety belts in heavy trucks.

On the other hand, the agency explained the proposed prohibition of ALR's was based on the tendency of those retractors to become uncomfortable because of progressive tightening or "cinching down." The agency had no additional reasons for proposing to prohibit ALR's on heavy vehicle belts. At the time the agency proposed to require ELR's only, however, it was not aware of either a requirement by some States that the driver's seat in heavy school buses be equipped with an ALR or the existence of newer ALR designs with anti-cinch capability. Since NHTSA was unaware of the States' requirement for an ALR on the driver's seat of a school bus, the agency did not consider whether it was necessary or desirable to preempt those State regulations by issuing a Federal regulation. Executive Order 12612 compels NHTSA to consider the federalism implications of this final rule, now that the agency is aware of those State regulations. After considering the federalism implications, the agency has determined that it is not necessary to preempt these State requirements, for the reasons set forth below.

With respect to the issue of newer ALR designs with anti-cinch capability, NHTSA further investigated these newer designs by visiting three retractor manufacturers (IMMI, TRW, and Allied) to review their anti-cinch ALR programs. As a result of the information gained from reviewing these programs, NHTSA has concluded that the cinching problem may be solved for ALR's. Therefore, this rule has been expanded from the proposal, in order to permit ALR's with anti-cinch capability to be installed in heavy vehicles. For the purposes of this rule, anti-cinch capability for an ALR is determined by examining the working of the retractor after it has locked after the initial adjustment of the safety belt. After this initial adjustment and with the webbing extended to 75 percent of its maximum extension, an ALR with anti-cinch capability will *not* retract webbing to the next locking position until at least ¾ of an inch of webbing has been retracted into the retractor.

These requirements were derived from existing requirements in Standard No. 209. Section S4.3(i) of Standard No. 209 currently specifies that the webbing of a seat belt assembly equipped with an ALR "shall not move more than 1 inch or 25 millimeters between locking positions of the retractor." This requirement ensures that occupants of seating positions with ALR's will not move forward more than one inch in a crash before the ALR locks. However, Standard No. 209 does not set forth any required minimum distance for the webbing to move between locking positions on an ALR. Absent a provision for a minimum distance of webbing travel between locking positions on ALR's, those retractors have exhibited the tendency to "cinch down" on occupants, as explained above and in the NPRM.

NHTSA believes that anti-cinch capability in ALR's can be defined by incorporating a minimum distance of webbing travel between locking positions on ALR's. The agency started from the premise that this minimum distance should not compromise the one inch maximum distance of webbing travel that is needed for adequate occupant crash protection. NHTSA sought to establish a minimum distance requirement that was not too close to the one-inch maximum distance requirement, in recognition of the item-to-item variations inherent in mass-produced goods. Setting a minimum

distance requirement too close to the one-inch maximum limit could result in manufacturers being forced to scrap a larger than normal percentage of their ALR's because those ALR's exceeded the one-inch maximum limit. On the other hand, NHTSA sought to establish a minimum distance requirement that was sufficiently close to the one-inch limit to minimize instances of "cinch down." The agency has concluded that the ¾-inch minimum established by this rule represents the most appropriate balance of these competing interests.

The 75 percent extension specified for determining compliance with this requirement is identical to the 75 percent extension already specified in S5.2(i) of Standard No. 209 for determining whether ALR's comply with Standard No. 209. NHTSA believes that it is appropriate to measure compliance with this new ¾-inch minimum webbing travel requirement for ALR's in Standard No. 208 under the same conditions currently specified for determining compliance with the existing 1-inch maximum webbing travel requirement for ALR's in Standard No. 209.

2. Mounting Position of Retractors

The NPRM proposed that ELR's would have to be mounted to the seat frame above any air suspension mechanism used in the vehicle's seat. This proposed requirement was intended to ensure that the belt would not tighten around the wearer, and possibly discourage continued use, whenever the suspension seat moved.

The Teamsters supported this proposal because it would help increase belt comfort for the wearer. MVMA stated that it supported the intent of the proposal, but that it believed the proposed wording would result in unintended restrictions in retractor location for some suspension seat designs. MVMA suggested that the requirement be reworded to specify that the retractors be mounted on the seat structure that moves with the seat occupant as the suspension system functions. MVMA also stated that the proposed retractor location requirements did not appear to address the possible future installation of lap/shoulder belts in heavy vehicles. This point was echoed in the comments of IMMI and Volvo White, both of which stated that the proposed retractor location requirements would restrict designs of lap/shoulder belts for heavy vehicles. ASBC commented that advanced belt systems are being developed for heavy vehicles, and suggested that NHTSA not preclude installation of such belt systems by requiring retractors to be mounted on suspension seat frames. Freightliner commented that the EEC allows anchorages for lap/shoulder belts with ELR's that are installed in heavy vehicles to be mounted on the cab structure. Freightliner stated that the proposed retractor location requirements would conflict with the EEC requirement.

Bostrom Seating, Inc. (Bostrom) and Mack asked whether the agency intended to cover only seats with air suspension, as proposed in the NPRM, or whether the agency meant to address *all* types of suspension seats in heavy trucks, which would include seats that use steel or rubber spring suspensions. Volvo White also commented that the proposed location requirement was too restrictive. According to this commenter, not all heavy vehicle seats are pedestal designs, where it might be appropriate to locate retractors on the seat structure. Some heavy vehicle seats incorporate risers integral to the cab of the heavy truck. According to Volvo White, these types of seats would have different design requirements, and it might be inappropriate to locate the retractors on the seat structure.

In response to these comments, the agency has reevaluated its proposal. NHTSA agrees with the commenters that the proposed language was drafted to address lap belts only, and that it did not fully consider the possibility that some manufacturers would install lap/shoulder belts in heavy vehicles. To accommodate this possibility, this final rule imposes retractor location requirements only for:

1. Lap belts that use ALR's; and
2. The pelvic portion of a dual retractor lap/shoulder belt assembly, if the retractor for the pelvic portion is an ALR. This rule does *not* impose any retractor location requirements for lap belts that use ELR's or for ELR lap/shoulder belt assemblies. Hence, manufacturers that are developing these types of belt systems for heavy vehicles will not have to change the planned location of the retractor in response to this rule.

There are several reasons why this rule does not adopt the proposed location requirements for ELR's used at a seating position with an air suspension seat. First, such a requirement does not appear necessary in many instances. In general, ELR's do not cinch down on the belt wearer in most applications. Further, some new truck cab designs will have seat risers integral to the cab structure with the seat cantilevered from the riser. A requirement that the retractors for the belts of such seats be located on the seat structure would be unnecessary, because the belts would not cinch down on the wearer even if the retractors were on the riser or some other part of the cab structure. Additionally, there are now available some electrically activated ELR designs that would prevent the retractor from tightening, even if the retractor were located on the cab structure.

Second, a location requirement for ELR's could preclude manufacturers from exploring some innovative belt system designs that are now being considered for heavy vehicles. For instance, the agency has learned that lap/shoulder belts with ELR's are being evaluated for installation in heavy vehicles, some of which would require the lap belt retractor to be attached to the cab structure. The agency believes that these innovative designs could offer comfort and occupant protection that would be at least as good as that offered by systems that complied with the proposed retractor location requirements.

Accordingly, this rule specifies no location requirements for ELR's used on suspension seats in heavy trucks. NHTSA assumes that vehicle manufacturers will consider wearer comfort when determining the appropriate location of the ELR's, and that manufacturers will not position ELR's in locations that would make the safety belts uncomfortable for wearers. The agency will reexamine this question if these assumptions prove to be incorrect.

With respect to ALR's, the agency has decided that this final rule should include retractor location requirements. As noted in the NPRM, ALR's are not permitted at the front outboard seating positions in passenger cars, because of the wearer comfort problems that have been associated with those belts. If an ALR were used in a single retractor lap/shoulder belt, the retractor would lock when the belt was buckled, thereby preventing the user from leaning forward to reach vehicle controls, items in the glove box, and so forth. Although this rule permits only ALR's with anti-cinch capability to be installed in heavy trucks, NHTSA believes that retractor location requirements are still necessary for seats that have suspension mechanisms. If an ALR were located on the cab structure of a cab with suspension seats, the movement of the suspension seats, which can be different from the movement of the cab structure, would increase the likelihood of belts cinching down on the wearer. With cab-mounted ALR's for suspension seats,

even the anti-cinch capability of the ALR's permitted by this rule would not completely eliminate the likelihood that belt wearers would experience some "cinch down" and discomfort because of the belt tightening around the wearer. To achieve this rule's goal of enhancing belt use in heavy vehicles, it is necessary to eliminate the likelihood of "cinch down" for belt users, by specifying location requirements for ALR's used on suspension seats.

Bostrom and Mack correctly pointed out in their comments that the problems that led the agency to propose retractor location requirements for seats with air suspension systems would occur in seats with other types of suspension systems, including rubber or steel spring suspension systems. Therefore, these retractor location requirements for ALR's apply to all vehicles where an ALR is installed at a subject seat that has its own suspension system.

The agency has also determined that the language suggested by MVMA in its comments effectuates the agency's intent in a less restrictive manner. The NPRM proposed that the retractors be mounted "on the seat assembly and above any adjustment or air-suspension mechanism." MVMA stated that on some designs of suspension seats, the retractor could be located so as to minimize the likelihood of "cinching down," but the retractor would be adjacent to any adjustment or air-suspension mechanism, not "above" it. Further, MVMA correctly noted that a retractor would function as intended by the NPRM if it were mounted below the seat's fore-and-aft track, but that this position also would be prohibited by the requirement that the retractor be mounted "above" any adjustment mechanisms. MVMA suggested that the language be revised to permit the locations described above, while achieving the agency's intent, by specifying that retractors be located "on the seat structure that moves with the seat occupant as the suspension system functions." This final rule adopts MVMA's suggested language.

3. Standardize Buckle Release

The NPRM proposed to require that the belts in heavy vehicles be equipped with a push button release, which is required for all safety belt systems in light vehicles. This proposal was supported by Chrysler, Mack, Volvo White, ASBC, IIHS, Ford, the Teamsters, NSTA, Blue Bird, California Highway Patrol, and Freightliner. IMMI also supported the proposal, but stated that it assumed the "push button release" would permit the continued use of slide-button releases. Section S7.2(c) of Standard No. 208 requires that a seat belt assembly shall have a latch mechanism that "releases at a single point by a pushbutton action." This requirement has applied to passenger cars since 1972 and to most light trucks and multipurpose passenger vehicles since 1976. Some releases that comply with the requirements of S7.2(c) could be described as "slide-button releases." On the other hand, some designs that could be described as "slide-button releases" would not comply with S7.2(c), because they would not release by a "pushbutton action." If IMMI is uncertain whether the release mechanism that it called a "slide-button release" complies with the requirements of S7.2(c), it should request an interpretation of that section with respect to its release mechanism, and enclose pictures and diagrams of the release mechanism with the request for interpretation.

GM commented that it uses a push button release on all of its vehicles, so it would not be affected by the adoption of the proposed provision. However, GM stated its belief that such a requirement would be design-restrictive. To avoid this, GM suggested that other releases be permitted if they include a means to ensure against inadvertent release. Any standardization effort is necessarily design-restrictive. Accordingly, standardization efforts are undertaken only when the benefits of standardization outweigh the disadvantages of restricting alternative designs. In this instance, NHTSA has concluded that the benefits of having a standardized release mechanism in all types of vehicles, in terms of encouraging use and eliminating confusion about how to release the buckle in an emergency, are sufficiently compelling to justify the prohibition of other types of release mechanisms in heavy vehicles.

Beam's, a heavy vehicle safety belt manufacturer, commented that there would be no advantage to push button buckles, and that most of its customers prefer flap-type buckles, even though there is no price difference between push button and flap-type buckles. Similarly, API commented that there is insufficient information to provide that push button buckles are superior to flap-type buckles, and that flap-type buckles are preferred by some drivers. NHTSA does not question the assertion that some drivers prefer flap-type buckles. Further, while the NPRM explained NHTSA's reasons for believing that there may be safety advantages associated with pushbutton release buckles, the NPRM also explicitly acknowledged that there were insufficient data to show that push button release buckles have a marked safety advantage over flap-type buckles. However, this rulemaking was initiated to improve the extremely low belt use rate in heavy vehicles. The agency has concluded that a requirement that safety belts in heavy vehicles have the same type of release mechanism that is installed in the driver's personal vehicle will eliminate any confusion or uncertainty about how to release the belts. Eliminating any confusion or uncertainty should increase belt use in heavy vehicles, and increased belt use would enhance vehicle safety.

ATA commented that the standardized push button release was a good idea, but it was concerned that truck drivers wearing work gloves or mittens might find it difficult to release their belts. NHTSA knows of no test results to support this position, nor have any truck drivers raised this complaint. Some NHTSA personnel attempted to open several different buckles while wearing heavily padded ski gloves, and did not encounter any difficulties in releasing the buckles. Therefore, NHTSA has no reason to believe that truck drivers wearing gloves or mittens will encounter any problems releasing their safety belts.

After reconsidering its proposal and the comments received thereon, the agency has adopted in this rule the proposed requirement that the safety belts in heavy vehicles have a push button release mechanism.

4. Safety Belt Loads

The NPRM referred to the EEC action lowering the anchorage strength requirements for safety belts in heavy vehicles, but explained that the agency had insufficient data on the effects of such a change in the U.S. driving environment. Accordingly, the notice requested data from all interested parties on this issue.

In response to this request, Chrysler and GM commented that they had no data on belt loads. Volvo White, Ford, ASBC, and the California Highway Patrol believed that a reduction in the anchorage strength requirements for these vehicles would be appropriate, but offered no data to support this belief. MVMA stated that it had no data on the subject, but recommended that this area be further investigated. ATA commented that a task force of the Society of Automotive Engineers (SAE) was examining the issue of the appropriate anchorage strength requirements for these vehicles. Until that task force completes its work, the

ATA said, the appropriate anchorage strength requirements for heavy vehicles will not be known, so heavy vehicle manufacturers should continue to comply with the existing 5,000-pound load.

Navistar referred to one crash it conducted "some years ago" in which the belt measured in a 27,000-pound straight truck was 533 pounds. Freightliner referred to some German crash tests of a truck moving at 21 kilometers per hour (kmh), which corresponds to about 12.6 miles per hour (mph), into various passenger cars moving at 42 kmh (about 24.2 mph). These crashes yielded a truck deceleration of about 5 g's, which Freightliner interprets as showing that the anchorage strength requirements for heavy vehicles could be lowered. The agency notes that the Navistar information consisted of a single crash, while the data referred to by Freightliner represented a single European-size truck crashing into European-size passenger cars at a single speed.

After evaluating these comments, NHTSA has concluded that it still lacks sufficient data to propose lowering heavy vehicle anchorage strength requirements. The agency will continue to gather data in this area. The agency will consider initiating rulemaking on this topic if and when there are sufficiently probative data on the effects of lowering anchorage strength requirements in heavy vehicles.

5. Other Comments on Buckle Release Accessibility and Ease of Operation

In their comments, Duke Power Company and Mobil Oil asked that the final rule include a requirement that the buckle release mechanism be mounted on the inboard side of the vehicle. Duke Power commented that such a requirement would ensure the buckle could be released if the vehicle was in a crash where it was hit on the driver's side. IIHS commented that the preamble to the NPRM referred to UPS equipping all its trucks with stand-up buckles for easy one-hand operation, and asked that the final rule include a requirement for all heavy vehicles to be equipped with stand-up buckles that allow one hand operation.

The agency does not believe there is a safety need to adopt these requested amendments. NHTSA notes that this rule does not prohibit manufacturers from equipping heavy vehicles with stand-up buckles or buckles on the inboard side of the vehicle, if consumers prefer those features. However, NHTSA is not aware of any data that show that buckles on the inboard side of the vehicle are safer than buckles on the outboard side. In fact, one might argue that buckles on the outboard side could be released more quickly by rescue personnel in fire and other emergency situations, thus allowing a quicker rescue. Further, adoption of the requested amendments could serve to stifle innovative restraints system and seating system designs, at a time when the agency is seeking to increase safety belt use in heavy vehicles. Therefore, NHTSA has not adopted these requested amendments in this final rule.

6. Leadtime

The NPRM proposed to give one year of leadtime between the publication of the final rule and the effective date of the amendments. Comments were requested on this leadtime. MVMA stated that one year was too short a leadtime, although it did not explain the basis for its assertion. Further, MVMA did not indicate what length of time would be sufficient. Navistar suggested an 18-month leadtime, since it did not install ELR's on any of its heavy vehicles. It asserted that it would need 18 months to evaluate the available ELR's and incorporate acceptable ones into its vehicle production. Ford suggested a two-year leadtime. Ford commented that it could probably change from ALR's to ELR's, as proposed, on its vehicles that included retractors in about 18 to 20 months. However, Ford stated that some of its vehicles did not currently offer any retractors. On those vehicles, Ford commented that it might have to modify seat cushions and trim to make room for retractors, or to move the anchorages. For such vehicles, Ford commented that it would need about two years to make and test all the required changes. Volvo White indicated that it would need a three to five-year leadtime. This was based on 1.5 to 2 years to redesign its seats to comply with the proposed retractor location requirements on suspension seats, another 1 to 1.5 years to redesign its vehicles to incorporate the redesigned seats, and then another 0.5 to 1 year to complete its certification testing of the redesigned vehicles. Volvo White also included a 0.5 to 1-year period to allow it to use up existing supplies of old seats.

After reconsidering this issue, NHTSA has concluded that the proposed one-year leadtime was too short, primarily because that length of time may be needed just to ensure that the vehicle manufacturers can evaluate retractors and obtain adequate supplies of those retractors. The vehicle manufacturers will also have to evaluate the seat designs in each of their heavy vehicle models and perhaps change some of the retractor locations. NHTSA believes this could be accomplished in approximately 18 months and that this evaluation could be undertaken simultaneously with the retractor evaluation. To account for the uncertainties in the agency estimates, this final rule provides a two-year leadtime for the vehicle manufacturers. This means that heavy vehicles manufactured on or after September 1, 1990 must comply with the requirements of this rule. The agency has concluded that the Volvo White estimate of three to five years is excessive, because it was premised upon that company scrapping all its existing seat designs and lap/shoulder belt restraint system designs. Since neither of those actions is required by this rulemaking, the estimate is not deemed reliable.

7. Costs

The NPRM stated NHTSA's estimates that this rule would cost the consumer about $14 in 1982 dollars for ELR's at each seating position, based on a study of the belt system installed in a 1980 Citation. Since most heavy vehicles have two seating positions in the cab, the agency estimated incremental costs of installing ELR's would be about $30 per heavy vehicle, which would result in total annaul costs of between $6 million and $7 million. Incremental consumer costs for push button releases were expected to be less than 10 cents per vehicle and total estimated annual cost for push button release was estimated at about $30,000. The NPRM asked for comments on these estimates.

Ford stated that the estimated costs were reasonable. Bostrom stated that the estimated costs were correct, if the intent was to have the retractor mounted on the seat support structure, not the seat cushion itself. Neither the proposal nor this rule requires the retractors to be mounted on the seat cushion, so the agency is treating Bostrom's comment as saying that the cost estimates in the proposal were accurate. Volvo White, on the other hand, stated that the cost estimates were too low. First, Volvo White did not believe the 1980 Citation was a good benchmark for estimating costs, because the sales volume for the 1980 Citation was more than two years' worth of heavy truck sales by all manufacturers. Second, Volvo White now equips some of its vehicles with NLR's, but consumers get a credit of $20 per seating position if they order the truck without a retractor. According to Volvo White, ELR's cost more than NLR's, so the cost estimate for ELR's should be more than $20 per seating position.

The agency has concluded that its estimate of costs was reasonable, and is not persuaded by Volvo White's assertions to the contrary. The difference in sales volume between the 1980 Citation and total heavy truck sales has no effect on NHTSA's cost estimate for ELR's. Retractor manufacturers use the identical parts for ELR's regardless of the vehicle type in which the ELR is ultimately installed. Thus, there is no inherent reason that an ELR to be installed in a heavy vehicle would cost any more or less than an ELR to be installed in a passenger car.

Volvo White's consumer credit of $20 per seating position ordered without a retractor also does not suggest that the agency's cost estimate was inaccurate. These "delete option" credits are not necessarily directly related to the manufacturer's costs to provide the option. Volvo White did not provide any estimates of the costs it would incur if it were to provide ELR's in its heavy vehicles. NHTSA derived its cost estimate from an actual study of an ELR, and two manufacturers (Ford and Bostrom) commented that the cost estimates based on that study were reasonable. Since Volvo White did not provide any cost estimates of its own, and did not establish that NHTSA had somehow erred in its own cost estimates, the agency concludes that its previous cost estimates for ELR's was reasonable.

The agency has no study on which to base a cost estimate for the anti-cinch ALR's permitted by this rule. However, if manufacturers of anti-cinch ALR's want to compete with manufacturers of ELR's for the heavy vehicle market, NHTSA anticipates that the anti-cinch ALR's would be comparably priced. Thus, for the purposes of this rule, NHTSA estimates that the incremental costs of installing anti-cinch ALR's will be about $30 per heavy vehicle, the same as ELR's.

Regulatory Impacts

NHTSA has examined the impacts of this rulemaking action and determined that this rule is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has also determined that the economic and other impacts of this rule are so minimal that a full regulatory evaluation is not required.

As noted in the NPRM, most new vehicles manufactured today are equipped only with simple safety belt buckles with no retractors. As explained above, the incremental customer costs of requiring ELR's or anti-cinch ALR's will be about $14 per seating position, or about $30 per heavy vehicle. Total estimated annual costs of requiring these retractors would be between $6 million and $7 million. The incremental customer cost for requiring a push button release for the safety belts is expected to add less than 10 cents to total vehicle cost, and will result in estimated annual costs of about $30,000. These figures are far short of the $100 million costs that result in a rule being classified as a major rule.

Based on the experience of the United Parcel Service in substantially increasing safety belt use by its employees, NHTSA believes that the requirements for retractors and push botton release buckles are likely to raise safety belt use up to 15 to 20 percent. An increase in belt use to the 15 to 20 percent range could eliminate 40–60 fatalities annually and reduce the severity of from 8,000 to 12,000 injuries annually for heavy truck occupants. Since the safety belt use rate is unknown for drivers of heavy MPV's and buses, the agency cannot quantify the potential fatality and injury reduction for those vehicles.

NHTSA has also considered the effects of this rule under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. Few, if any, of the heavy vehicle manufacturers are small entities. To the extent that these manufacturers experience a cost increase as a result of this rule, that increase will be minimal, as explained above. Likewise, small organizations and small governmental entities will not be significantly affected by this rule. Although those groups do purchase heavy vehicles, the potential price increases resulting from this rule will be minimal.

The agency has also analyzed this rule for the purposes of the National Environmental Policy Act, and determined that the rule will not have any significant impact on the quality of the human environment.

Finally, NHTSA has considered the federalism implications of this final rule, as required by Executive Order 12612 NHTSA is unaware of any existing State requirements that would be preempted by this rule. After considering this rule in accordance with the principles and criteria contained in Executive Order 12612, NHTSA has determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR 571.208 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

S571.208 Standard No. 208; Occupant crash protection.

2. Section 4.3 of Standard No. 208 is revised to read as follows:

S4.3 *Trucks and multipurpose passenger vehicles, with GVWR of more than 10,000 pounds.*

S4.3.1 *Trucks and multipurpose passenger vehicles with a GVWR of more than 10,000 pounds, manufactured in or after January 1, 1972 and before September 1, 1990.* Each truck and multipurpose passenger vehicle with a gross vehicle weight rating of more than 10,000 pounds, manufactured on or after January 1, 1972 and before September 1, 1990, shall meet the requirements of S4.3.1.1 or S4.3.1.2. A protection system that meets the requirements of S4.3.1.1 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.3.1.2.

S4.3.1.1 *First option—complete passenger protection system.* The vehicle shall meet the crash protection requirements of S5 by means that require no action by vehicle occupants.

S4.3.1.2 *Second option—belt system.* The vehicle shall, at each designated seating position, have either a Type 1 or a Type 2 seat belt assembly that conforms to S571.209.

S4.3.2 *Trucks and multipurpose passenger vehicles with a GVWR of more than 10,000 pounds, manufactured on or after September 1, 1990.* Each truck and multipurpose passenger vehicle with a gross vehicle weight rating of more than 10,000 pounds, manufactured on or after September 1, 1990, shall meet the requirements of S4.3.2.1 or S4.3.2.2. A protection system that meets the requirements of S4.3.2.1 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.3.2.2.

S4.3.2.1 *First option—complete passenger protection system.* The vehicle shall meet the crash protection requirements of §5 by means that require no action by vehicle occupants.

S4.3.2.2 *Second option—belt system.* The vehicle shall, at each designated seating position, have either a Type 1 or a Type 2 seat belt assembly that conforms to S571.209 of this Part and S7.2 of this Standard. A Type 1 belt assembly or the pelvic portion of a dual retractor Type 2 belt assembly installed at an outboard seating position shall include either an emergency locking retractor or an automatic locking retractor. An automatic locking retractor provided for one of these belt assemblies at an outboard seating position shall not retract webbing to the next locking position until at least ¾ inch of webbing has moved into the retractor. In determining whether an automatic locking retractor complies with this requirement, the webbing is extended to 75 percent of its length and the retractor is locked after the initial adjustment. An automatic locking retractor that is used at an outboard seating position that has some type of suspension system for the seat shall be attached to the seat structure that moves as the suspension system functions.

3. Section 4.4 of Standard No. 208 is revised to read as follows:

S4.4 *Buses.*

S4.4.1 *Buses manufactured on or after January 1, 1972 and before September 1, 1990.* Each bus manufactured on or after January 1, 1972 and before September 1, 1990, shall meet the requirements of S4.4.1.1 or S4.4.1.2.

S4.4.1.1 *First option—complete passenger protection system—driver only.* The vehicle shall meet the crash protection requirements of S5, with respect to an anthropomorphic test dummy in the driver's designated seating position, by means that require no action by vehicle occupants.

S4.4.1.2 *Second option—belt system—driver only.* The vehicle shall, at the driver's designated seating position, have either a Type 1 or a Type 2 seat belt assembly that conforms to S571.209.

S4.4.2 *Buses manufactured on or after September 1, 1990.* Each bus manufactured on or after September 1, 1990, shall meet the requirements of S4.4.2.1 or S4.4.2.2.

S4.4.2.1 *First option—complete passenger protection system—driver only.* The vehicle shall meet the crash protection requirements of S5, with respect to an anthropomorphic test dummy in the driver's designated seating position, by means that require no action by vehicle occupants.

S4.4.2.2 *Second option—belt system—driver only.* The vehicle shall, at the driver's designated seating position, have either a Type 1 or a Type 2 seat belt assembly that conforms to S571.209 of this part and S7.2 of this standard. A Type 1 belt assembly or the pelvic portion of a dual retractor Type 2 belt assembly installed at the driver's seating position shall include either an emergency locking retractor or an automatic locking retractor. An automatic locking retractor provided for one of these belt assemblies at the driver's seating position shall not retract webbing of the next locking position until at least ¾ inch of webbing has moved into the retractor. In determining whether an automatic locking retractor complies with this requirement, the webbing is extended to 75 percent of its length and the retractor is locked after the initial adjustment. An automatic locking retractor that is used at a driver's seating position that has some type of suspension system for the seat shall be attached to the seat structure that moves as the suspension system functions.

4. The introductory phrase of section S7.2 is revised to read as follows:

S7.2 *Latch mechanism.* A seat belt assembly installed in any vehicle, except an automatic belt assembly, shall have a latch mechanism—

* * * * *

Issued on June 30, 1988.

Diane K. Steed,

Administrator.

[FR Doc. 88-15121 Filed 7-5-88; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 53, No. 129
Wednesday, July 6, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

High-Level Waste Licensing Support System Advisory Committee (Negotiated Rulemaking); Ninth Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of ninth meeting.

SUMMARY: The Nuclear Regulatory Commission will hold the ninth meeting of the High-Level Waste Licensing Support System Advisory Committee on July 20–21, 1988. The Committee, established under the Federal Advisory Committee Act, is tasked with developing recommendations for revision of the Commission's Rules of Practice in 10 CFR Part 2 related to the adjudicatory proceeding for the issuance of a license for a geologic repository for the disposal of high-level waste (HLW). The Committee is attempting to negotiate a consensus on proposed revisions related to the submission and management of records and documents for the HLW licensing proceeding.

DATE: The ninth meeting of the HLW Licensing Support System Advisory Committee will be held July 20–21, 1988.

ADDRESS: The location of the July 20–21, 1988, meeting of the HLW Licensing Support System Advisory Committee is the Best Western Airport Plaza Hotel, 1981 Terminal Way, Reno, Nevada.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Director, Division of Freedom of Information and Publication Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7211.

SUPPLEMENTARY INFORMATION: The ninth meeting of the HLW Licensing Support System Advisory Committee ("negotiating committee") is scheduled to include continued discussion of substantive issues related to a high-level waste licensing support systemn.

Dated at Bethesda, Maryland, this 1st day of July 1988.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Acting Chief, Regulatory Publications Branch, Division of Freedom of Information and Publication Services, Office of Administration and Resources Management.

[FR Doc. 88–15242 Filed 7–5–88; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88–AGL–4]

Proposed Alteration of Sault Ste. Marie Additional Control Area, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the description of the Sault Ste. Marie, MI, Additional Control Area (ACA). The Sault Ste. Marie nondirectional radio beacon (RBN) has been decommissioned and the current description which is based, in part, on the RBN is no longer correct.

DATES: Comments must be received on or before August 15, 1988

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 88–AGL–4, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 88–AGL–4." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closign date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Admin.stration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of the Sault Ste. Marie, MI, ACA. The Sault Ste. Marie RBN has been decommissioned and the ACA description should be redescribed to remove all references to that RBN. The altered description of the Sault Ste. Marie ACA slightly expands the ACA which includes small portions of uncontrolled airspace which will become controlled airspace. However, this change will not adversely affect the flying public because the additional airspace is totally over Lake Superior and is rarely used. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

The FAA has determined that this proposed 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, when promulgated, 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, Additional control area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) 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; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.163 [Amended]

2. Section 71.163 is amended as follows:

Sault Ste. Marie, MI [Revised]

That airspace extending upward from 1,200 feet AGL in an area bounded by a line beginning at lat. 46°33'00" N., long. 84°00'00" W., to lat. 46°13'00" N, long. 84°00'00" W., to lat. 46°58'30" N., long. 86°25'00" W., to lat. 48°07'00" N., long. 89°10'00" W., to lat. 48°23'00" N., long. 88°33'00" W., to the point of beginning. The airspace within Canada is excluded.

Issued in Washington, DC, on June 22, 1988.

Shelomo Wugalter,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88-15064 Filed 7-5-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 88-ANM-7]

Proposed Alteration of Laramie, WY Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to provide controlled airspace for aircraft executing a new instrument approach procedure to the General Breese Field, Laramie, Wyoming. The intended effect is to ensure segregation of aircraft operating in instrument weather conditions and other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before August 29, 1988.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 88-ANM-7, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Office of Regional Counsel at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-535, Federal Aviation Administration, Docket No. 88-ANM-7, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 88-ANM-7". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide controlled airspace for aircraft executing a new TACAN instrument approach procedure to the General Breese Field, Laramie, Wyoming, utilizing the Laramie VORTAC (LAR) as a navigation aid. The intended effect is to ensure segregation of aircraft operating in instrument weather conditions and other aircraft operating in visual weather conditions.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

The FAA has determined that this proposed 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, when promulgated, 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, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

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

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

§ 71.181 [Amended]

Laramie, Wyoming, Transition Area [Amended]

On the seventh line after "VORTAC", add the following description: * * *; that airspace extending upward for 1,200 feet above the surface bounded by a line beginning at Latitude 41°53'00"N., Longitude 105°51'00"W.; to Latitude 41°53'00"N., Longitude 105°08'00"W.; to Latitude 41°13'00"N., Longitude 105°08'00"W.; to Latitude 41°13'00"N., Longitude 105°51'00"W.; thence to point of beginning excluding all other controlled airspace which overlaps.

Issued in Seattle, Washington, on June 20, 1988.

Francis E. Davis,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 88–15063 Filed 7–5–88; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 88–AGL–11]

Proposed Alteration of VOR Federal Airway, Indiana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Federal Airway V–243 located in the vicinity of Bowling Green, KY. Currently, V–243 is aligned, in part, from Bowling Green, KY, to Terre Haute, IN, a distance of approximately 158 nautical miles. We propose to redescribe that portion of V–243 via the Huntingburg, IN, very high frequency omni-directional radio range and tactical air navigational aid (VORTAC). This action would improve navigation in that area and lower the minimum en route altitude (MEA).

DATES: Comments must be received on or before August 18, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 88–AGL–11, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holiday, between 8:30 a.m. and 5: p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 88–AGL–11." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign V–243 from Bowling Green, KY, via Huntingburg, IN, to Terre Haute, IN. The present alignment from Bowling Green to Terre Haute has an MEA of 7,000 feet for fifty percent of the distance. By adding Huntingburg to the route segment, the MEA would be lowered significantly. Currently, traffic arriving/departing the Evansville, IN, terminal are vectored below the MEA to expedite traffic flow in that area. This action would reduce controller workload and reduce delays. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

The FAA has determined that this proposed 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, when promulgated, 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.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) 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; Executive Order 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-243 [Amended]

By removing the words "Terre Haute, IN." and substituting the words "Huntingburg, IN; to Terre Haute, IN."

Issued in Washington, DC, on June 24, 1988.

William C. Davis,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88-15062 Filed 7-5-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 965

[Docket No. R-88-1396; FR-2482]

Change in Consolidated Supply Program (CSP)

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: HUD is proposing to delete from the Consolidated Supply Program (CSP), purchase agreements under which Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) purchase supply items with a value not in excess of the current Open Market Purchase Limitation of $10,000. This proposed rule would reduce HUD's involvement in purchasing supplies to develop, maintain, and repair buildings owned or leased by PHAs and IHAs.

DATE: Comment due date: September 6, 1988.

ADDRESS: All comments concerning this proposed rule should be addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Persons submitting comments should include their names, addresses, and telephone numbers and refer to the docket number and title indicated in the heading of this rule. All comments submitted will be available for public inspection in the Office of the Rules Docket Clerk at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Michael E. Diggs, Chief, Consolidated Supply and Procurement Branch, Public and Indian Housing, Department of Housing and Urban Development, Room 4124, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 472-4703. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department issued regulations that govern the operation of the Consolidated Supply Program (CSP) (24 CFR Part 965, Subpart G also referenced in the Department of Housing and Urban Development Acquisition Regulation (48 CFR 2401.601-70 and 2402.101)), in order to assist Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) to assure the low-income character of projects as required under sections 6(a) and (9) of the United States Housing Act of 1937 (the Act). Under the CSP, the Department of Housing and Urban Development (HUD) furnishes technical contractual assistance to PHAs/IHAs for the voluntary use of those agencies that purchase certain supplies, material, equipment, and services necessary for the development, operation, and maintenance of low-income housing.

HUD is proposing to eliminate the use of purchase agreements for purchases of supplies with a value not in excess of the current Open Market Purchase Limitation of $10,000 from the Consolidated Supply Program. (See 24 CFR 965.602(f) and 965.604).

Purchase agreements entered into between HUD and suppliers were designed to provide multiple suppliers for specified Supply Items or for a Line of Items (*e.g.*, plumbing supplies, electrical supplies, etc.) at a discount where such discounts would not otherwise be available. The Department believes that PHAs/IHAs can obtain such supplies at competitive prices by using local small purchase procedures.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

This proposed rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities because it merely reduces HUD's involvement in the purchasing of supplies to develop, maintain, and repair buildings owned or leased by PHAs and IHAs.

This rule was listed as item 1030 in the Department's Semiannual Agenda of Regulations published on April 25, 1988 (53 FR 13854, 13892) under Executive Order 12291 and the Regulatory Flexibility Act.

Information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget for review

under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments relating to information collection requirements should be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for HUD. After OMB review and approval, the public will be notified of the OMB control number assigned these requirements through a technical amendment to this proposed rule.

List of Subjects in 24 CFR Part 965

Energy conservation, Loan programs: housing and community development, Public housing, Utilities.

Accordingly, 24 CFR Part 965, Subpart G, is proposed to be amended as follows:

PART 965—PHA-OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

Subpart G—Consolidated Supply Program

1. The authority citation for Part 965 would continue to read as follows:

Authority: Secs. 2, 3, 6, and 9, United States Housing Act of 1937 (42 U.S.C. 1437, 1437a, 1437d, and 1427g); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 965.602 [Amended]

2. In § 965.602, paragraph (f) would be removed and paragraph (g) and (h) would be redesignated as (f) and (g) respectively.

§ 965.604 [Removed and Reserved]

3. Section 965.604 is proposed to be removed and reserved.

4. Section 965.605(a) would be revised to read as follows:

§ 965.605 Reports.

(a) *Report on purchases.* Within 60 days after the expiration of a CSC, the Contractor shall submit a report to the CSC Contracting Officer including the contract number and the total dollar volume of PHA/IHA purchases under the contract during the preceding fiscal year.

* * * * *

Dated: June 24, 1988.

Jacqueline Aamot,

Associate General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 88-15148 Filed 7-5-88; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Safety and Pollution-Prevention Equipment

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: Current rules governing offshore oil and gas operations require that safety and pollution-prevention equipment (i.e., surface safety valves (SSV), underwater safety valves (USV), and subsurface safety valves (SSSV)) be manufactured in accordance with a quality assurance program specified in the rule. The American Petroleum Institute (API) has requested that the quality assurance program developed by it be evaluated by the Minerals Management Service and recognized as an acceptable alternative or option to the quality assurance program presently specified in 30 CFR 250.1 and 250.126. This notice proposes to amend existing rules to update the American National Standard Institute/American Society of Mechanical Engineers (ANSI/ASME) SPPE-1 quality assurance standard from the 1985 edition to the 1988 edition and to provide for the recognition of API's quality assurance program, API Spec Q1 in combination with API Spec 14A and 14D, as an acceptable alternate or optional quality assurance program for the manufacture of safety and pollution-prevention equipment.

DATE: Comments must be received or postmarked by August 5, 1988.

ADDRESS: Comments should be mailed or hand delivered to the Department of the Interior; Minerals Management Service; Mail Stop 646, Room 6A110; 12203 Sunrise Valley Drive; Reston, Virginia 22091; Attention: Gerald D. Rhodes.

FOR FURTHER INFORMATION CONTACT: M. L. Courtois; Chief, Offshore Inspection and Enforcement Division; Minerals Management Service; Mail Stop 647, Room 6A200; 12203 Sunrise Valley Drive; Reston, Virginia 22091; (703) 648-7750.

SUPPLEMENTARY INFORMATION: The current regulation requires that safety and pollution-prevention equipment be manufactured under the 1985 edition of the ANSI/ASME SPPE-1 quality assurance program. The API has submitted its quality assurance program (API Spec Q1 in combination with API Spec 14A and API Spec 14D) for evaluation and requested its recognition as an acceptable alternative or optional program to the ANSI/ASME SPPE-1 quality assurance program. The 1988 edition of the ANSI/ASME SPPE-1 and the API Q1 quality assurance programs have been reviewed and are being proposed for recognition in the regulations as acceptable alternative quality assurance programs.

Section 250.126 would be amended by adding a paragraph (c)(3) to specify API Spec Q1 in combination with API Spec 14A and 14D as an acceptable quality assurance program and by moving requirements for installation, inspection, maintenance, testing, removal, redress, remanufacture, and documentation of safety and pollution-prevention equipment from paragraph (c)(2) to a new paragraph (d).

The requirements being moved into paragraph (d) are a reiteration of the requirements also contained in §§ 250.121 and 250.122, and the change is not intended as a substantive change in requirements.

Section 250.1, Documents Incorporated by Reference, is also proposed for modification. The API Spec Q1, Specification for Quality Programs, API Spec 14A, Specification for Subsurface Safety Valve Safety Equipment, and API Spec 14D, Specification for Surface Safety Valves and Underwater Safety Valves, were added to the list of documents incorporated by reference. The API Spec 14A and 14D are an integral part of the API quality assurance program, API Spec Q1. Other changes to the documents incorporated by reference involve the paragraph where the document is incorporated into the rule and, in the case of SPPE-1, the edition and date of the document. The 1988 edition of SPPE-1 has been issued by ANSI/ASME and is being proposed for inclusion in the rule in lieu of the 1985 edition currently cited. Interested persons who wish to submit written comments and suggestions regarding the proposed rule should forward those comments to the address specified above.

The Department of the Interior (DOI) has determined that this rule will have a positive effect on the economy and is not a major rule under Executive Order 12291; therefore, a regulatory impact analysis is not required.

The DOI has determined that this rule will not have a significant economic effect on small entities since offshore activities are complex undertakings generally engaged in by enterprises that are not considered small entities.

This proposed rule does not affect any information collection which requires

approval by the Office of Management and Budget in 44 U.S.C. 3501 *et seq.*

Author: This document was prepared by Joe Graddy, Offshore Inspection and Enforcement Division, Minerals Management Service.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Minerals Management Service, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands-mineral resources, Public lands-right-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: June 6, 1988.

William D. Bettenberg,

Director, Minerals Management Service.

For the reasons set forth above, 30 CFR Part 250 is proposed to be amended as follows:

PART 250—[AMENDED]

1. The authority for Part 250 continues to read as follows:

Authority: Sec. 204 Pub. L. 95-372, 92 Stat. 629 (43 U.S.C. 1334)

2. Section 250.1 is amended by revising paragraph (c)(5) revising the introductory portion of paragraph (d), removing paragraphs (d)(6) and (d)(11), renumbering existing paragraphs (d)(12) through (d)(46) as new paragraphs (d)(15) through (d)(49), renumbering existing paragraphs (d)(8) through (d)(10) as new paragraphs (d)(11) through (d)(13), renumbering existing paragraph (d)(7) as new paragraph (d)(9), renumbering existing paragraphs (d)(1) through (d)(5) as new paragraphs (d)(2) through (d)(6), and adding new paragraphs (d)(1), (d)(7), (d)(8), (d)(10), and (d)(14) as follows:

§ 250.1 Documents incorporated by reference.

* * * * *

(c) * * *

(5) ANSI/ASME SPPE-1-1988, Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations, Incorporated by Reference at § 250.126(c)(2).

* * * * *

(d) American Petroleum Institute (API) Documents. The API documents listed in this paragraph may be purchased from the American Petroleum Institute, 1220 L. Street, NW., Washington, DC 20005. (Paragraphs (d)(22) through (d)(49) of this section refer to the API Manual of Petroleum Measurement Standards.)

(1) API Spec Q1, Specificaiton for Quality Programs, Second Edition, January 1988, API Stock No. 811-00001, Incorporated by Reference at: § 250.126(c)(3).

* * * * *

(7) API Spec 14A, Specification for Subsurface Safety Valve Equipment, Seventh Edition, January 1988, API Stock No. 811-07150, Incorporated by Reference at: § 250.126(c)(3).

(8) API RP 14B, Recommended Practice for Design, Installation, and Operation of Subsurface Safety Valve Systems, Second Edition, November 1981 with Supplement 3, June 1986, API Stock No. 811-03200, Incorporated by Reference at: §§ 250.121(e)(4), 250.124(a)(1)(i), and 250.126(d).

* * * * *

(10) API Spec 14D, Specification for Wellhead Surface Safety Valves and Underwater Safety Valves for Offshore Service, Seventh Edition, January 1988, API Sotck No. 811-07183, Incorporated by Reference at: § 250.126(c)(3).

* * * * *

(14) API RP 14H, Recommended Practice for Use of Surface Safety Valves and Underwater Safety Valves Offshore, Second Edition, April 1984, API Stock No. 811-07196, Incorporated by Reference at: §§ 250.122(d) and 250.126(d).

* * * * *

3. In § 250.126, paragraphs (c) (1), (2) and (3) are revised and paragraph (d) is added to read as follows:

§ 250.126 Quality assurance and performance of safety and pollution-prevention equipment.

* * * * *

(c) * * *

(1) Be identified on the list submitted under paragraph (b) of this section by a lessee of the lease on which the item is to be installed,

(2) Be certified by the manufacturer as having been produced under a quality assurance program that meets the requirements of ANSI/ASME SPPE-1, or

(3) Be certified by the manufacturer as having been produced under a quality assurance program that meets the requirements of API Spec Q1 and the technical specification API Spec 14A for SSSV's and API Spec 14D for SSV's and USV's.

(d) The installation, inspection, maintenance, testing, removal, redress, field repair, and documentation of safety and pollution-prevention equipment used on the OCS shall be in accordance with API RP 14B for an SSSV and API RP 14H for an SSV or USV. A remanufactured SSV or USV shall meet the requirements of paragraph (c) of this section.

[FR Doc. 88-15025 Filed 7-5-88; 8:45 am]

BILLING CODE 4310-MR-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-284, RM-6138]

Radio Broadcasting Services; Angola and Lagrange, IN; Brooklyn, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Lake Cities Broadcasting Corporation, proposing the substitution of FM Channel 287B1 for Channel 261A at Angola, Indiana, and modification of the license for Station WLKI-FM, Channel 261A, accordingly, to provide that community with its first wide coverage area FM service. Additionally, petitioner seeks the substitution of Channel 262A for Channel 288A at Lagrange, Indiana, as well as the substitution of Channel 225A for Channel 287A at Brooklyn, Michigan, to accommodate its proposal. Reference coordinates utilized in our determinations are, for Angola, IN, Channel 287B1, 41-34-25 and 84-52-32, for Lagrange, IN, Channel 262A, 41-38-36 and 85-22-00, and for Brooklyn, MI, Channel 225A, 42-03-05 and 84-20-35.

DATES: Comments must be filed on or before August 19, 1988, and reply comments on or before September 6, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Richard J. Hayes, Jr., Esq., 1359 Black Meadow Road, Greenwood Plantation, Spotsylvania, VA 22553.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-284, adopted May 25, 1988, and released June 28, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M

Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–15168 Filed 7–5–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–285, RM–6373]

Radio Broadcasting Service; West Monroe, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Bill Dunnavant proposing the allotment of Channel 247A to West Monroe, Louisiana, as that community's second local FM service. The coordinates for the proposal are 32–31–96 and 92–08–51.

DATES: Comments must be filed on or before August 19, 1988, and reply comments on or before September 6, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Bill Dunnavant, P.O. Box 389, Athens, Alabama 35611 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–285, adopted May 25, 1988, and released June 28, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–15167 Filed 7–5–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–282, RM–6300]

Radio Broadcasting Services; Greenwood, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of FM Channel 230A for Channel 270A at Greenwood, Mississippi, in order to permit a change in transmitter site for Station WFTA, Channel 270C2, Fulton, Mississippi, in response to a petition filed by Itawamba County Broadcasting Company, Inc. Channel 270A was allocated to Greenwood in MM Docket No. 84–231 and made available for application in window number 32. Two applications are now pending for the channel at Greenwood. The substitution can be accomplished in compliance with the minimum distance separation requirements of the Commission's Rules at the specified sites of each applicant.

DATES: Comments must be filed on or before August 19, 1988, and reply comments on or before September 6, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

Itawamba County Broadcasting Company, Inc., Olvie E. Sisk, President, P.O. Box 587, Fulton, Mississippi 38843.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–282, adopted May 17, 1988, and released June 27, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–15171 Filed 7–5–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–283, RM–6280]

Radio Broadcasting Services; Port Gibson, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Evan Doss, Jr., proposing the allocation of FM Channel 263A to Port Gibson, Mississippi, as that community's first FM broadcast service. The coordinates for Channel 263A are 31–57–30 and 90–59–00.

DATES: Comments must be filed on or before August 19, 1988, and reply comments on or before September 6, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Evan Doss, Jr., P.O. Box 653, Port Gibson, Mississippi 39150.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–283, adopted May 17, 1988, and released June 28, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–15166 Filed 7–5–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–328; RM–5740]

Radio Broadcasting Services; Senatobia, MS

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document dismisses a petition for rule making filed by Christian Impact, Inc., requesting the allotment of FM Channel 229A to Senatobia, Mississippi. The petition is dismissed because no expression of interest has been filed by the petitioner or any other party. With this action, this proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–328, adopted May 4, 1988, and released June 27, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 88–15170 Filed 7–5–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–286, RM–6376]

Radio Broadcasting Services; Henderson, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Chester County Broadcasting Co., Inc., proposing the allocation of Channel 299A to Henderson, Tennessee, as a first local FM service. The coordinates for the proposal are 35–26–24 and 88–39–24.

DATES: Comments must be filed on or before August 19, 1988, and reply comments on or before September 6, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Chester County Broadcasting Co., Inc., P.O. Box 203, Henderson, Tennessee 38340 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–286, adopted May 25, 1988, and released June 28, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 aqnd 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–15165 Filed 7–5–88; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION
Federal Highway Administration

49 CFR Part 382

[FHWA Docket No. MC-116]
RIN 2125-AA79

Motor Carrier Safety Standards; Controlled Substances

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public hearings.

SUMMARY: In a notice of proposed rulemaking (NPRM) published at 53 FR 22268 on June 14, 1988, the FHWA announced that it was considering holding a public hearing on the proposal. The FHWA has determined that public hearings would be useful in this rulemaking proceeding. This notice announces a series of public hearings to solicit information concerning the proposed rulemaking. Information gathered at the public hearings will be included in Docket No. MC-116 and will be reviewed and evaluated by the FHWA in conjunction with this rulemaking proceeding.

DATES: See **SUPPLEMENTARY INFORMATION** for dates of hearings.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for locations of hearings.

FOR FURTHER INFORMATION CONTACT: Requests to make a statement at any hearing or inquiries about the logistics and locations of a hearing should be directed to Mr. Stanley Hamilton, Office of Motor Carriers, (HPS-1), Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590; (202) 366-0665. Questions concerning the subject matter of the NPRM should be directed to Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards (202) 366-2981, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366-1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

On June 14, 1988, the FHWA published an NPRM in the **Federal Register** (53 FR 22268). The NPRM proposes rules to require comprehensive drug testing and rehabilitation for truck and bus drivers operating in interstate commerce. Testing under the proposed rules would be conducted (1) prior to employment, (2) periodically, (3) randomly, (4) after a fatal accident, and (5) where reasonable cause exists. The NPRM also requests comments on four alternatives under which drivers might qualify for rehabilitation and a return to employment afterward. The alternatives are:

(1) Offer an opportunity for rehabilitation to drivers who seek help voluntarily and to all drivers whose tests show illegal drug use;

(2) Offer an opportunity for rehabilitation to drivers who seek help voluntarily or who are found to use drugs through random or periodic testing but not through post-accident or reasonable-cause testing;

(3) Offer an opportunity for rehabilitation only to drivers who voluntarily seek help; or

(4) Do not require rehabilitation. Employers would be free to offer more rehabilitation options than the minimums proposed.

In the NPRM, the FHWA announced that it was considering holding a public hearing on the proposal. The FHWA has determined that public hearings would be useful in this rulemaking proceeding. Information gathered at the public hearings will be included in Docket No. MC-116. This information will be reviewed and evaluated by the FHWA in conjunction with this rulemaking proceeding.

The NPRM included many questions regarding the proposed rules, including specific questions about the implementation of a program for small operators, costs associated with the proposed program, and alternatives to the proposed rehabilitation requirements. The questions contained in the NPRM will not be repeated in this notice. The FHWA is interested in information on any aspect of the proposed rule. The FHWA is also interested in obtaining specific, factual information regarding any other anti-drug programs, "success" rates of those programs based on the population of individuals involved in the program, and difficulties that may be encountered during implementation of anti-drug program.

An individual is not required to make a statement at a hearing in order to participate in this rulemaking proceeding. Any individual may submit comments to the FHWA Docket (Docket No. MC-116) instead of, or in addition to, making a statement at a hearing. All signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to Room 4232, Office of the Chief Counsel, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m. e.t. Monday through Friday, except legal holidays. Comments must be received on or before September 12, 1988.

Hearings

The FHWA will be holding a total of five hearings throughout the country. All hearings are scheduled to begin at 9:00 a.m. local time. The FHWA anticipates that each hearing will adjourn at or before noon, except the hearing held in Washington, DC which should adjourn by 5:00 p.m. The hearing officer has sole discretion to extend the time of the hearing.

An individual or representative of an organization should request an opportunity to make a statement at a hearing at least 7 days before the date of the particular hearing that the individual or representative plans to attend. A request to make a statement at a hearing must be directed to the person listed under "**FOR FURTHER INFORMATION CONTACT.**" A request to make a statement that is received after the deadline, including requests made the day of the hearing, will be accommodated to the extent that the schedule permits. The FHWA requests that individuals or representatives submit an advance copy of the statement and/or the material to be presented at the hearing to the FHWA at least 3 days before the date of the hearing that an individual or representative plans to attend. If individuals are not able to provide this material in advance, they are requested to bring at least 10 copies of the material to the hearing for distribution.

The public hearings will be held on the following dates in these cities:

July 12, 1988—Cleveland, Ohio
July 18, 1988—Birmingham, Alabama
July 25, 1988—Dallas, Texas
August 4, 1988—Los Angeles, California
August 9, 1988—Washington, DC

For information regarding the specific locations of these hearings, please call the person listed under "**FOR FURTHER INFORMATION CONTACT.**"

Hearing Procedures

The following procedures have been established by the FHWA to facilitate the hearings:

1. An individual, whether speaking in a personal or private capacity or speaking in a representative capacity on behalf of a company, union, trade associated or organization, is limited to a 15-minute statement at any hearing. The time limits are intended to provide an opportunity for a wide variety of individuals and representatives to make statements at a hearing. The hearing officer has sole discretion to grant

additional time for a statement at the hearing.

2. Statements may be made by the hearing officer or any member of the hearing panel to clarify issues or facilitate discussion during the hearing. Any statements made during the hearing are not intended to be, and should not be construed as, a position of the FHWA with respect to the rulemaking proceeding.

3. The hearing will be recorded by a court reporter. A transcript of the hearings and any material accepted by the hearing officer during the hearing to be included in the record will be included in Docket No. MC–116. Any person interested in purchasing a copy of the transcript should contact the court reporter directly.

4. The hearings are designed to solicit public views and information on the proposed rule. Therefore, the hearings will be conducted in an informal and nonadversarial manner. An individual or representative will not be subject to cross-examination by any other participant. The hearing panel is entitled to ask questions in order to clarify any statement made at the hearing or the material accepted by the hearing officer during the hearing.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 382

Controlled substances, Highways and roads, Highway safety, Motor carriers, Motor vehicle safety.

(Catalog of Federal Domestic Assistance Program No. 20.217, Motor Carrier Safety.)

Issued on June 30, 1988.

Robert E. Farris,

Federal Highway Administrator.

[FR Doc. 88–15250 Filed 7–5–88; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 58
RIN 2127–AC 49

Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to make two relatively minor amendments to Standard No. 208. The first proposal involves an extension of the existing requirements for certain passenger car belt systems that incorporate tension-relieving devices. These devices allow a car occupant to introduce slack in the webbing of his or her shoulder belt to relieve belt pressure and thereby promote belt usage. However, these devices could reduce the effectiveness of the belts in a crash situation if the tension-relieving device were misused to introduce excessive slack in the belt webbing.

The agency has already conducted rulemaking to apply special requirements to cars with automatic belts that incorporate tension-relieving devices. The requirements will also apply to cars that use tension-relieving devices on manual belt assemblies, if the requirement for automatic occupant protection in cars is rescinded. However, these special requirements have not been applied to cars that use tension-relieving devices on belt assemblies installed in conjunction with air bags. All manufacturers that currently install air bags at a front outborad seating position also install manual safety belts at those seating positions. We believe that the same potential for misuse of the tension-relieving devices exists for these belt systems as it does for the belt systems already subject to the additional requirements. Therefore, this notice proposes to apply these additional requirements to belt systems installed in cars in conjunction with air bags.

The second proposed change involves adjustable anchorages for belts. The adjustability feature allows an occupant to move one of these anchorages within a limited range, so as to optimize the fit of his or her belt. These adjustable anchorages are available on a few cars now, and may be available on more vehicles in the future.

Standard No. 208 currently does not specify any particular adjustment position at which adjustable anchorages will be set during compliance testing. Absent such guidance, manufacturers may apply different, even inconsistent, criteria in selecting the adjustment positions for anchorages during their certification testing. The adjustment positions selected by the manufacturers might also differ from those selected by NHTSA for the adjustable anchorages during its compliance testing.

To avoid any difficulties or confusion that might result from these circumstances, this notice proposes that adjustable anchorages be set at the vehicle manufacturer's nominal design position for a 50th percentile adult male (the size of the test dummy used in compliance testing). This would be similar to the existing provision in Standard No. 208 for placing adjustable seat backs in "the manufacturer's nominal design riding position." Such a provision would avoid the compliance testing problems described above without imposing any additional burdens or compliance problems for vehicle manufacturers.

DATES: Comments on this notice must be received by NHTSA not later than August 22, 1988. If a final rule adopts this proposal, it would be effective on September 1, 1989.

ADDRESS: Comments should refer to the docket and notice number set forth in the heading of this notice, and be submitted to: Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW., Washington, DC 20590 (Docket hours are 8:00 am to 4:00 pm Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Strombotne, Chief, Crashworthiness Division, NRM–12, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202–366–2264).

SUPPLEMENTARY INFORMATION: This notice proposes two minor amendments to Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208). The first proposed amendment involves the provisions for passenger car safety belts at front outboard seating positions that incorporate tension-relieving devices. These tension-relieving devices are intended to relieve shoulder belt pressure and increase the comfort of the belt, thereby increasing the likelihood of belt usage. However, such devices may reduce the effectiveness of the belts in a crash situation if the tension-relieving devices are misused so as to introduce excessive slack in the belt webbing.

To strike an appropriate balance between increasing belt use while avoiding belt misuse, section S7.4.2 of Standard No. 208 specifies additional requirements for certain safety belts that incorporate tension-relieving devices and are installed at a front outboard seating position. These additional requirements are:

1. The vehicle owner's manual must include an explanation of how the tension-relieving device works and recommend a maximum amount of slack that should be introduced into the belt under normal circumstances;

2. The vehicle must comply with the injury criteria specified in S5.1 of Standard No. 208 with the shoulder belt webbing adjusted to introduce the

maximum amount of slack recommended by the manufacturer; and

3. The vehicle must have an automatic means to cancel any shoulder belt slack introduced into the belt system by a tension-relieving device.

With respect to passenger cars, these requirements presently apply to vehicles that have automatic belts. If the requirements for automatic occupant crash protection is rescinded, the requirements will also apply to cars with manual belts installed at a front outboard seating position *if* those belt systems incorprate some tension-relieving device.

However, these are not the only types of belt systems that could be installed in cars in compliance with Standard No. 208. The most obvious example of such a belt system would be one that is installed at a front outboard seating position equipped with an air bag, to comply with the requirements of S4.1.2.1(c)(2) of the Standard. Subsection S4.1.2.1(c) requires that subject vehicles must *either* (1) meet the lateral crash protection requirements of S5.2 and the rollover crash protection requirements of S5.3 by means that require no action by vehicle occupants, *or* (2) be equipped with safety belts at the front outboard seating positions, so that the vehicle meets the requirements of S5.1 with the test dummies restrained by the belt assembly *in addition to* the means that require no action by the vehicle occupant. In practice, all vehicles that have had air bags installed at a front outboard seating position to this date have also had a manual belt assembly installed at that seating position, to comply with S4.1.2.1(c)(2).

Manual belt systems installed at a front outboard seating position to comply with S4.1.2.1(c)(2) are *not subject* to the tension-relieving device requirements of S7.4.2 of Standard No. 208. As noted in the agency's notice proposing to establish S7.4.2 (50 FR 14580; April 12, 1985) and the final rule adopting that proposal (50 FR 46056; November 6, 1985), NHTSA believes that the added potential to improve belt fit and the added comfort of belts equipped with tension-relieving devices is desirable in certain circumstances, because these features could serve to enhance proper belt use. However, those same notices expressed the agency's concern that excessive slack could compromise belt effectiveness. On balance, the agency concluded that tension-relieving devices should continue to be permitted on belt assemblies, but that certain special conditions (i.e., those specified in S7.4.2) should apply to vehicles that had belt assemblies equipped with tension-relieving devices to reduce the likelihood of misuse.

NHTSA believes that these same considerations apply to tension-relieving devices on manual belt systems installed to comply with S4.1.2.1(c)(2). Accordingly, this notice proposes to extend the requirements of S7.4.2 to apply to manual belt systems installed to comply with S4.1.2.1(c)(2) of Standard No. 208, if such systems are equipped with tension-relieving devices and installed at front outboard seating positions.

The second change proposed in this notice concerns adjustable anchorages on belt systems. Adjustable anchorages allow the occupant of a seating position to move the anchorage location within a limited range, so as to optimize the fit of his or her belt. Adjustable upper anchorages are already incorporated in some vehicles.

The positioning of an anchorage on a belt system can affect the performance of the belt system during a crash. Thus, the position to which an adjustable anchorage is set during compliance testing might affect the outcome of that testing. Standard No. 208 sets positioning requirements during compliance testing for several vehicle design features that are capable of adjustment. For example, the standard requires horizontally adjustable seats to be adjusted to the midpoint of the adjustment range (S8.1.2) and adjustable head restraints are placed in their highest adjustment position (S8.1.3). However, the standard does *not* specify any positioning requirements for adjustable anchorages.

When a standard specifies no positioning requirements for an adjustable feature in a vehicle or item of motor vehicle equipment, considerable difficulties could arise. Absent guidance in the standard as to the appropriate adjustment position for adjustable anchorages, the various vehicle manufacturers may apply different criteria in selecting the anchorage adjustment position for their certification testing. Further, the criteria used by the manufacturers to determine the anchorage adjustment position during their certification testing may differ from those used by the agency during its compliance testing. The differing adjustment positions could lead to unreasonable and unnecessary difficulties for both the manufacturers and the agency.

NHTSA believes there is a simple and reasonable means to avoid these problems. This notice proposes to amend Standard No. 208 to provide that all adjustable anchorages would be set to the vehicle manufacturer's nominal design position for a 50th percentile adult male occupant. This requirement would be comparable to the existing requirements for adjustable seat backs in S8.1.3 of the standard, which provides that those seat backs shall be placed "in the manufacturer's nominal design riding position." When a vehicle is to be tested in Standard No. 208 compliance testing, the agency contacts the vehicle's manufacturer to learn its "nominal design riding position" for the seat backs in the vehicle, and adjusts the seat backs to that position during compliance testing. Under this proposal, the agency could be advised of the vehicle manufacturer's nominal design position for the adjustable anchorages for a 50th percentile adult male during that same contact with the manufacturer. The agency believes that this procedure would avoid the difficulties that could result from the agency using anchorage adjustment positions during compliance testing that differed from the adjustment positions used by the manufacturers during certification testing.

The agency solicits comments on alternative compliance testing procedures that could be established for adjustable anchorages. For instance, would it be appropriate to require that vehicles equipped with adjustable anchorages comply with Standard No. 208 with the anchorages in *any* adjustment positions? Such a requirement would ensure that the adjustable anchorages afforded adequate protection even if they were not properly adjusted. The agency is also interested in learning of any other suggestions for positioning adjustable anchorages during compliance testing. Any commenter opposing alternative positioning procedures is requested to explain why an alternative positioning procedure should not be established, including any available test results.

NHTSA has analyzed this proposal and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. If adopted as a final rule, the proposed requirement to extend the existing requirement to vehicles that have tension-relieving devices on manual belt systems installed in conjunction with an air bag would impose only minimal costs. Commenters are invited to provide information on this subject.

The proposed requirement to specify the position to which adjustable anchorages would be set during compliance testing is not expected to

result in any increase in costs. It would merely ensure that the vehicle manufacturers and other interested members of the public knew how the agency would adjust the anchorages for the purposes of the agency's compliance testing. Accordingly, the agency has not prepared a full regulatory evaluation for this proposal.

Additionally, the agency has analyzed the effects of this proposal on small entities, in accordance with the Regulatory Flexibility Act. Based on this analysis, I hereby certify that this proposal, if adopted as a final rule, would not have a significant economic impact on a substantial number of small entities. Few, if any, of the vehicle manufacturers qualify as small entities. To the extent that some might so qualify, the impacts would not be significant, as explained above. The proposed requirements would not significantly affect the manufacturing process of any safety belt manufacturers that are small entities or the retail price of vehicles purchased by any small organizations or small governmental units.

The agency has also analyzed this proposal under the National Environmental Policy Act and determined that it would not have a significant effect on the human environment, if it were adopted as a final rule.

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

The Office of Management and Budget (OMB) has already approved NHTSA's requirement that instructions appear in the vehicle owner's manual concerning the proper use of any tension-relieving devices incorporated in any automatic belts or manual belts, if the requirement for automatic occupant crash protection is rescinded (OMB #2127–0541). However, this proposal would expand the scope of that requirement to include tension-relieving devices installed on manual belts installed in conjunction with air bags. This expansion is considered to be an information collection requirement, as that term is defined by OMB in 5 CFR Part 1320. Accordingly, this proposed requirement will be submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Comments on this proposed information collection requirement should be submitted to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for NHTSA. It is requested that comments sent to the OMB also be sent to the NHTSA rulemaking docket for this proposed action.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.12). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will result the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA proposed to amend 49 CFR 571.208 as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.208 [Amended]

2. S7.4.2 of Standard No. 208 would be amended by revising the introductory text to read as follows:

S7.4.2 *Webbing tension-relieving device.* Each vehicle with an automatic seat belt assembly, a manual seat belt assembly installed to comply with S4.1.2.1(c)(2) of this standard, or with a Type 2 manual seat belt assembly that must comply with S4.6 of this standard, installed at a front outboard designated seating position that has either manual or automatic tension-relieving devices permitting the introduction of slack in the webbing of the shoulder belt (e.g., "comfort clips" or "window-shade" devices) shall:

* * * * *

3. S8.1.3 would be revised to read as follows:

S8.1.3 Place adjustable seat backs in the manufacturer's nominal design riding position in the manner specified by the manufacturer. Place any adjustable anchorages at the manufacturer's nominal design position for a 50th percentile adult male occupant. Place each adjustable head restraint in its highest adjustment position. Adjustable lumbar supports are positioned so that the lumbar support is in its lowest adjustment position.

* * * * *

Issued on June 30, 1988.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 88–15177 Filed 7–5–88; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 53, No. 129
Wednesday, July 6, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

National School Lunch, Special Milk, and School Breakfast Programs; National Average Payments/Maximum Reimbursement Rates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the annual adjustments to: (1) The "national average payments," the amount of money the Federal Government provides States for lunches and breakfasts served to children participating in the National School Lunch and School Breakfast Programs; (2) the "maximum reimbursement rates," the maximum per lunch rate from Federal funds that a State can provide a school food authority for lunches served to children participating in the school lunch program; and (3) the rate of reimbursement for a half-pint of milk served to nonneedy children in a school or institution which participates in the Special Milk Program for Children. The payments and rates are prescribed on an annual basis each July. The annual payments and rates adjustments for the school lunch and school breakfast programs reflect changes in the food away from home series of the Consumer Price Index for All Urban Consumers. The annual rate adjustment for milk reflects changes in the Producer Price Index for Fresh Processed Milk. These payments and rates are in effect from July 1, 1988 to June 30, 1989.

EFFECTIVE DATE: July 1, 1988.

FOR FURTHER INFORMATION CONTACT: Lou Pastura, Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302. (703) 756-3620.

SUPPLEMENTARY INFORMATION: This Notice has been reviewed under Executive Order 12291 and has been classified not major. This Notice will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553, No. 10.555 and No. 10.556 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

This Notice imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601-612) and thus is exempt from the provisions of that Act.

Definitions

The terms used in this Notice shall have the meanings ascribed to them in the regulations governing the National School Lunch Program (7 CFR Part 210), the regulations for the Special milk Program (7 CFR Part 215), the regulations for School Breakfast Program (7 CFR Part 220) and the regulations for Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools (7 CFR Part 245).

Background

Special Milk Program for Children—Pursuant to section 3 of the Child Nutrition Act, as amended (42 U.S.C. 1772), the Department announces the rate of reimbursement for a half-pint of milk served to nonneedy children in a school or institution which participates in the Special milk Program for Children. This rate is adjusted annually to reflect changes in the Producer Price Index for Fresh Processed Milk, published by the Bureau of Labor Statistics of the Department of Labor.

For the period July 1, 1988 to June 30, 1989, the rate of reimbursement for a half-pint of milk served to a nonneedy child in a school or institution which participates in the Special Milk Program is 9.50 cents. The rate is unchanged due to an increase of less than 1 percent in the Producer Price Index for Fresh Processed Milk from May 1987 to May 1988.

As a reminder, schools or institutions with pricing programs which elect to serve milk free to eligible children continue to receive the average cost of a half-pint of milk (the total cost of all milk purchased during the claim period divided by the total number of purchased half-pints) for each half-pint served to an eligible child.

National School Lunch and School Breakfast Programs—Pursuant to section 11 of the National School Lunch Act, as amended (42 U.S.C. 1759a), and section 4 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1773), the Department annually announces the adjustments to the National Average Payment Factors, and to the maximum Federal reimbursement rates for lunches served to children participating in the National School Lunch Program. Adjustments are prescribed each July 1, based on changes in the food away from home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Lunch Payment Factors—Section 4 of the National School Lunch Act (42 U.S.C. 1753) provides general cash for food assistance payments to States to assist schools in purchasing food. There are two section 4 National Average Payment Factors (NAPFs) for lunches served under the National School Lunch Program. The lower payment factor applies to lunches served in school food authorities in which less than 60 percent of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced price. The higher payment factor applies to lunches served in school food authorities in which 60 percent or more of the lunches served during the second preceding school year were served free or at a reduced price.

To supplement these Section 4 payments, section 11 of the National School Lunch Act provides special cash assistance payments to aid schools in providing free and reduced price

lunches. The section 11 NAPF for each reduced price lunch served is set at 40 cents less than the factor for each free lunch.

As authorized under sections 8 and 11 of the National School Lunch Act, maximum reimbursement rates for each type of lunch are prescribed by the Department in this Notice. These maximum rates ensure equitable disbursement of Federal funds to school food authorities.

Breakfast Payment Factors—Section 4 of the Child Nutrition Act of 1966, as amended, establishes National Average Payment Factors for free, reduced price and paid breakfasts served under the School Breakfast Program and additional payments for schools determined to be in "severe need" because they serve a high percentage of needy children

Revised Payments

The following specific section 4 and section 11 National Average Payment Factors and maximum payments are in effect through June 30, 1989. Due to a higher cost of living, the average payments and maximum reimbursements for Alaska and Hawaii are higher than those for all other States. The Virgin Islands, Puerto Rico and the Pacific Territories use the figures specified for the contiguous States.

National School Lunch Program Payments

Section 4 National Average Payment Factors—In school food authorities which served *less than 60 percent* free and reduced price lunches in School Year 1986–87, the payments are: *Contiguous States*—14 cents, maximum rate 22 cents; *Alaska*—22.75 cents, maximum rate 34.50 cents; *Hawaii*—16.50 cents, maximum rate 25.50 cents.

In school food authorities which served *60 percent or more* free and reduced price lunches in School Year 1986–87, payments are: *Contiguous States*—16 cents, maximum rate 22 cents; *Alaska*—24.75 cents, maximum rate 34.50 cents; *Hawaii*—18.50 cents, maximum rate 25.50 cents.

Section 11 National Average Payment Factors—Contiguous States—free lunch 132.25 cents, reduced price lunch 92.25 cents; *Alaska*—free lunch 214.25 cents, reduced price linch 174.25 cents; *Hawaii*—free lunch 154.75 cents, reduced price lunch 114.75 cents.

School Breakfast Program Payments

For schools "not in severe need" the payments are: *Contiguous States*—free breakfast 79.25 cents, reduced price breakfast 49.25 cents, paid breakfast 14 cents; *Alaska*—free breakfast 126.50 cents, reduced price breakfast 96.50 cents, paid breakfast 21 cents; *Hawaii*—free breakfast 92.25 cents, reduced price breakfast 62.25 cents, paid breakfast 16 cents.

For schools in "severe need" the payments are: *Contiguous States*—free breakfast 94.75 cents, reduced price breakfast 64.75 cents, paid breakfast 14 cents; *Alaska*—free breakfast 151.50 cents, reduced price breakfast 121.50 cents, paid breakfast 21 cents; *Hawaii*—free breakfast 110.25 cents, reduced price breakfast 80.25 cents, paid breakfast 16 cents.

Payment Chart

The following chart illustrates: The lunch National Average Payment Factors with the sections 4 and 11 already combined to indicate the per meal amount; the maximum lunch reimbursement rates; the breakfast National Average Payment Factors including "severe need" schools; and the milk reimbursement rate. All amounts are expressed in dollars or fractions thereof. The payment factors and reimbursement rates used for the Virgin Islands, Puerto Rico and the Pacific Territories are those specified for the contiguous States.

SCHOOL PROGRAMS—MEAL AND MILK PAYMENTS TO STATES AND SCHOOL FOOD AUTHORITIES

[Expressed in Dollars or Fractions Thereof Effective from July 1, 1988–June 30, 1989]

National school lunch program*	Less than 60%	60% or more	Maximum rate
Contiguous States:			
Paid	.1400	1600	.2200
Reduced Price	1.0625	1.0825	1.2325
Free	1.4625	1.4825	1.6325
Alaska:			
Paid	.2275	.2475	.3450
Reduced Price	1.9700	1.9900	2.2325
Free	2.3700	2.3900	2.6325
Hawaii:			
Paid	1650	1850	.2550
Reduced Price	1.3125	1.3325	1.5075
Free	1.7125	1.7325	1.9075

School breakfast program	Non-severe need	Severe need
Contiguous States:		
Paid	1400	1400
Reduced Price	.4925	.6475
Free	.7925	.9475
Alaska:		
Paid	.2100	.2100
Reduced Price	.9650	1.2150
Free	1.2650	1.5150
Hawaii:		
Paid	1600	1600
Reduced Price	.6225	.8025
Free	.9225	1.1025

Special milk program	All milk	Paid milk	Free milk
Pricing programs without free option	$.0950	NA	NA
Pricing programs with free option	NA	$.0950	Average cost ½ pint milk.
Nonpricing programs	$.0950	NA	NA

*Payments listed for Free or Reduced Price Lunches include both Sections 4 and 11 funds.

Authority: Sections 4, 8, and 11 of the National School Lunch Act, as amended (42 U.S.C. 1753, 1757, 1759(a)) and Sections 3 and 4(b) of the Child Nutrition Act, as amended (42 U.S.C. 1772 and 42 U.S.C. 1773).

Date: June 29, 1988.

Anna Kondratas,

Administrator.

[FR Doc. 88–15090 Filed 6–30–88; 11:54 am]

BILLING CODE 3410-30-M

Child Care Food Program; National Average Payment Rates, Day Care Home Food Service Payment Rates and Administrative Reimbursement Rates for Sponsors of Day Care Homes for the Period July 1, 1988–June 30, 1989

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the annual adjustments to the national average payment rates for meals served in child care and outside-school-hours care centers, the food service payment rates for meals served in day care homes, and the administrative reimbursement rates for sponsors of day care homes to reflect changes in the Consumer Price Index. Further adjustments are made to these rates to reflect the higher costs of providing meals in the States of Alaska and Hawaii. The adjustments contained in this notice are required by the statutes and regulations governing the Child Care Food Program (CCFP).

EFFECTIVE DATE: July 1, 1988.

FOR FURTHER INFORMATION CONTACT: Lou Pastura, Branch Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This notice has been reviewed under Executive Order 12291, and has been classified as not major because it does not meet any of the three criteria identified under the Executive Order. The action announced in the notice will

not have an annual effect on the economy of $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 have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.588 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

(See 7 CFR Part 3015, Subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983)

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3587).

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

Definitions

The terms used in this notice shall have the meanings ascribed to them in the regulations governing the CCFP (7 CFR Part 226).

Background

Pursuant to sections 11 and 17 of the National School Lunch Act (42 U.S.C. 1753 and 1759a), section 4 of the Child Nutrition Act (42 U.S.C. 1773) and § 226.4, 226.12 and 226.13 of the regulations governing the CCFP (7 CFR Part 226), notice is hereby given of the new payment rates for participating institutions. These rates shall be in effect during the period July 1, 1988–June 30, 1989.

As provided for under the National School Lunch Act and the Child Nutrition Act, all rates in the CCFP must be prescribed annually on July 1 to reflect changes in the consumer Price Index (CPI) for the most recent 12-month period. In accordance with this mandate, the Department last published the adjusted national average payment rates for centers, the food service payment rates for day care homes and the administrative reimbursement rates for sponsors of day care homes on July 2, 1987 (for the period July 1, 1987–June 30, 1988).

All States Except Alaska and Hawaii

Meals Served in CENTERS—Per Meal Payment Rates *in Cents:*	
Breakfasts:	
Paid	14.00
Free	79.25
Reduced	49.25
Lunches and Suppers:	
Paid	[1] 14.00
Free	[1] 146.25
Reduced	[1] 106.25
Supplements:	
Paid	3.75
Free	40.25
Reduced	20.00
Meals Served in DAY CARE HOMES—Per Meal Payment Rates *in Cents:*	
Breakfasts	66.75
Lunches and Suppers	125.25
Supplements	37.25
ADMINISTRATIVE REIMBURSEMENT Rates for Sponsoring Organizations of Day Care Homes—Per Home/Per Month Rates *in Dollars:*	
Initial 50 day care homes	$55
Next 150 day care homes	42
Next 800 day care homes	33
Additional day care homes	29

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to children under the program. Notices announcing the value of commodities and cash-in-lieu of commodities are published separately in the **Federal Register.**

Pursuant to section 12(f) of the NSLA (42 U.S.C. 1760(f)), the Department adjusts the payment rates for participating institutions in the States of Alaska and Hawaii. The new payment rates for Alaska are as follows:

Alaska

Alaska-Meals Served in CENTERS—Per Meal Payment Rates *in Cents:*	
Breakfasts:	
Paid	21.00
Free	126.50
Reduced	96.50
Lunches and Suppers:	
Paid	[1] 22.75
Free	[1] 237.00
Reduced	[1] 197.00
Supplements:	
Paid	6.00
Free	65.00
Reduced	32.50
Alaska-Meals Served in DAY CARE HOMES—Per Meal Payment Rates *in Cents:*	
Breakfasts	106.50
Lunches and Suppers	203.00
Supplements	60.50

Alaska

Alaska—ADMINISTRATIVE REIMBURSEMENT Rates for Sponsoring Organizations of Day Care Homes—Per Home/Per Month Rates *in Dollars:*	
Initial 50 day care homes	$89
Next 150 day care homes	68
Next 800 day care homes	53
Additional day care homes	47

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to children under the program. Notices announcing the value of commodities and cash-in-lieu of commodities are published separately in the **Federal Register.**

The new payment rates for Hawaii are as follows:

Hawaii

Hawaii-Meals Served in CENTERS—Per Meal Payment Rates *in Cents:*	
Breakfasts:	
Paid	16.00
Free	92.25
Reduced	62.25
Lunches and Suppers:	
Paid	[1] 16.50
Free	[1] 171.25
Reduced	[1] 131.25
Supplements:	
Paid	4.25
Free	47.00
Reduced	23.50
Hawaii-Meals served in DAY CARE HOMES—Per Meal Payment Rates *in Cents:*	
Breakfasts	77.75
Lunches and Suppers	146.50
Supplements	43.75
Hawaii—ADMINISTRATIVE REIMBURSEMENT Rates for Sponsoring Organizations of Day Care Homes—Per Home/Per Month Rates *in Dollars:*	
Initial 50 day care homes	64
Next 150 day care homes	49
Next 800 day care homes	38
Additional day care homes	34

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to children under the program. Notices announcing the value of commodities and cash-in-lieu of commodities are published separately in the **Federal Register.**

The changes in the national average payment rates and the food service payment rates for day care homes reflect a 3.95 percent increase during the 12-month period May 1987 to May 1988 (from 116.4 in May 1987 to 121.0) in May

1988)[1] in the food away from home services of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. The changes in the administrative reimbursement rates for sponsoring organizations of day care homes reflect a 3.9 percent increase during the 12-month period May 1987 to May 1988 (from 113.1 in May 1987 to 117.5 in May 1988) in the series for all items of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

The total amount of payments available to each State agency for distribution to institutions participating in the program is based on the rates contained in this notice.

Authority: Sections 4(b)(2), 11(a), 17(c) and 17(f)(3)(B) of the National School Lunch Act, as amended, (42 U.S.C. 1753, 1759(a), 1766) and Section 4(b)(1)(B) of the Child Nutrition Act of 1966 as amended, (42, U.S.C. 1773b).

Anna Kondratas,

Administrator.

Date: June 29, 1988.

[FR Doc. 88-15091 Filed 6-30-88; 11:54 am]

BILLING CODE 3410-30-M

Soil Conservation Service

Deauthorization of Federal Funds; Garrison Creek Watershed, OK

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of deauthorization of Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Garrison Creek Watershed project, Sequoyah County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: C. Budd Fountain, State Conservationist, Soil Conservation Service, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone (405) 624-4360.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

C. Budd Fountain,

State Conservationist.

[FR Doc. 88-15130 Filed 7-5-88; 8:45 am]

BILLING CODE 3410-16-M

Deauthorization of Federal Funding; Pott-Sem-Turkey Watershed, OK

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of deauthorization of Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Pott-Sem-Turkey Watershed project, Pottawatomie and Seminole Counties, Oklahoma.

FOR FURTHER INFORMATION CONTACT: C. Budd Fountain, State Conservationist, Soil Conservation Service, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone (405) 624-4360.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

C. Budd Fountain,

State Conservationist.

[FR Doc. 88-15131 Filed 7-5-88; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-801]

Postponement of Preliminary Antidumping Duty Determination; Certain All-Terrain Vehicles From Japan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

SUMMARY: This notice informs the public that we have received a request from petitioner in this investigation to postpone the preliminary determination as permitted by section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act). Based on this request, we are postponing our preliminary determination of whether sales of certain all-terrain vehicles from Japan have occurred at less than fair value until not later than August 8, 1988.

EFFECTIVE DATE: July 6, 1988.

FOR FURTHER INFORMATION CONTACT: Gregory G. Borden or Michael Ready, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377-3003 or (202) 377-2613.

SUPPLEMENTARY INFORMATION: On March 7, 1988 (52 FR 7222) we published a notice of initiation of an antidumping duty investigation to determine whether certain all-terrain vehicles from Japan are being, or are likely to be, sold in the United States at less than fair value. The notice stated that we would issue our preliminary determination by July 18, 1988.

As detailed in the notice, the petition alleged that imports of certain all-terrain vehicles from Japan are being, or are likely to be, sold in the United States at less than fair value.

On June 22, 1988 petitioner, Polaris Industries, L.P., requested that the Department extend the period for the preliminary determination until not later than 181 days after the date of receipt of the petition in accordance with section 733(c)(1)(A) of the Act. Accordingly, the period for determination in this case is hereby extended. We intend to issue a preliminary determination not later than August 8, 1988.

This notice is published pursuant to section 733(c)(2) of the Act.

June 29, 1988.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-15152 Filed 7-5-88; 8:45 am]

BILLING CODE 3510-OS-M

Quarterly Update of Foreign Government Subsidies on Articles of Quota Cheese

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of quarterly update of foreign government subsidies on articles of quota cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exists.

EFFECTIVE DATE: July 1, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Paul J. McGarr, Office of Compliance, International Trade Administration, U.S. Department

[1] The change in the index values, as compared to index values published in the Notice for the preceding year, are due to the general rebasing of the Consumer Price Index by Bureau of Labor Statistics.

of Commerce, Washington, DC 20230, telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter, the Depatment has determined that the subsidy amounts have changed for several of the countries for which subsidies were identified in our last quarterly update to the annual January 1, 1988 annual subsidy list. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Joseph A. Spetrini,

Acting Assistant Secretary, Import Administration.

Date: June 29, 1988.

APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS

Country	Program(s)	Gross [1] subsidy	Net [2] subsidy
Belgium	European Community (EC) Restitution Payments	0.0¢/lb.	0.0¢/lb.
Canada	Export Assistance on Certain Types of Cheese	28.3¢/lb.	28.3¢/lb.
Denmark	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Finland	Export Subsidy	112.1¢/lb.	112.1¢/lb.
	Indirect Subsidies	21.2¢/lb.	21.2¢/lb.
France	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Greece	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Ireland	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Italy	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Luxembourg	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Netherlands	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Norway	Indirect (Milk) Subsidy	19.6¢/lb.	19.6¢/lb.
	Consumer Subsidy	43.5¢/lb.	43.5¢/lb.
		63.1¢/lb.	63.1¢/lb.
Spain	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Switzerland	Deficiency Payments	107.0¢/lb.	107.0¢/lb.
U.K.	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
W. Germany	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.

[1] Defined in 18 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 88–15151 Filed 7–5–88; 8:45am]
BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of applications.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received one application for an Export Trade Certificate of Review and one application for an amended export trade certificate of review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificates should be issued.

FOR FURTHER INFORMATION CONTACT: John E. Stiner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97–290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether the certificates should be issued. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should reference the application number provided in the application summary. Summaries of the applications follow.

Summary of Application

Applicant: U.S.A. Book-Expo, Inc., 86 Millwood Road, Millwood, NY 10546. Contact: Edward A. Malinowski, President. Telephone: 914/762–2422.

Application #: 88–00008.

Date Deemed Submitted: June 24, 1988.

Members (in addition to applicant): None.

Export Trade

Products

Books and book-related materials published in the United States.

Export Trade Facilitation Services (as they relate to the export of Products)

Taking title to Products and providing or arranging for the provision of Transportation Services. Transportation Services include overseas freight transportation (all modes); inland freight transportation to a U.S. export terminal, port or gateway; packing and crating; leasing of transportation equipment and facilities; terminal or port storage; wharfage and handling; forwarder services; insurance; warehousing; foreign exchange; financing and financial services; export sale and trade documentation and services; overseas distribution; paying or charging commissions; marketing; advertising; communication and processing of foreign orders; accounting; clerical services; feasibility studies; investment services; legal services; management services; and translation services.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

U.S.A. Book-Expo, Inc. seeks certification to:

1. Consolidate and distribute the freight of suppliers for Products exported or in the course of being exported;

2. Negotiate, procure, provide, and administer Transportation Services to suppliers.

3. Negotiate charges and other terms and enter into contracts which provide for Transportation Services to suppliers including, but not limited to, the chartering and space chartering of vessels, the entering into of service contracts with ocean common carriers, the negotiation and utilization of through intermodal rates with common and contract carriers for inland freight transportation for export shipments to a U.S. export terminal, port, or gateway; and the combination and consolidation of container and less than containerload shipments into full containerized shipments. U.S.A. Book-Expo, Inc., may conduct this activity on behalf of its suppliers.

4. Meet and discuss with suppliers ideas, methods and information solely concerning Export Trade, including trade opportunities, selling strategies, sales, projected demands and business growth, customary terms of sale, and legal agreements for conducting business in the Export Markets, U.S. and foreign laws and regulatory programs affecting exports and expenses of exporting to specific points in the Export Markets.

5. Establish export prices for Products being exported through U.S.A. Book-Expo, Inc.

Summary of Application

OETCA has received the following application for an amendment to Export Trade Certificate of Review #84–00012, issued on June 11, 1984 (49 FR 24581, June 14, 1984).

Applicant: Northwest Fruit Exporters, 1005 Tieton Drive, Yakima, Washington 98902. Contact: Kenneth Severn, Secretary-Treasurer, telephone: (509) 453–4837.

Application No.: 84–3A012

Date Deemed Submitted: June 23, 1988.

Northwest Fruit Exporters seeks to amend its certificate to add the following company as a "Member" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): Underwood Fruit and Warehouse Company, White Salmon, WA.

Date: June 29, 1988.

John E. Stiner,

Director, Office of Export Trading Company Affairs.

[FR Doc. 88–15128 Filed 7–5–88; 8:45 am]

BILLING CODE 3510-DR-M

Minority Business Development Agency

[Transmittal No. 06–10–88018–01, Project I.D. No. 06–10–88018–01]

Lubbock/Midland-Odessa Minority Business Development Center (MBDC) Program Applications; Texas

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a three (3) year period, subject to available funds. The cost of performance for the first twelve (12) months is estimated at $194,118 for the project's performance period of November 1, 1988 to October 31, 1989. The MBDC will operate in the Lubbock/Midland-Odessa Standard Metropolitan Statistical Area (SMSA).

The first year's cost for the MBDC will consist of:

Name	Federal	Non-Federal	Total
Lubbock/Midland-Odessa SMSA	$194,118	[1] $29,118	$194,118

[1] Can be a combination of cash, in-kind contribution and fees for service.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian Tribes and educational institutions.

The MBDC will provide management and technical assistance (M&TA) to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance (M&TA); and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA, based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

CLOSING DATE: The closing date for receipt of application is August 5, 1988.

ADDRESS: MBDA—Dallas Regional Office, 1100 Commerce Street, Suite 7B23, Dallas, Texas 75242–0790.

FOR FURTHER INFORMATION, CONTACT: Deselene Crenshaw, Business Development Clerk, Dallas Regional Office, 214/767–8001.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Bobby Jefferson,

Supervisory, Business Development Specialist, Minority Business Development Agency, Dallas Regional Office.

Section B—Project Specifications

(To be completed by the Regional Offices)

Project Identification

1. Program Number and Title: 11.800 Minority Business Development.
2. Project Name: Lubbock/Midland-Odessa MBDC (Geographic Area or SMSA).
3. Project Identification Number: 06–10–88018–01.

Budget Period Duration

1. Budget Period (Check One): First X Second ____ Third ____.
2. Start Date: November 1, 1988.
3. End Date: October 31, 1989.
4. Budget Period Duration (Months): Twelve Months.

Project Cost

1. Required Federal Funding Level: $165,000.00.
2. Minimum Non-Federal Contribution: $29,118.00.
3. Total Project Cost: $194,118.00.

Project Minimum Performance Goal Levels

1. Combined Financial Package and Procurement Minimum Goal Level: $12,016,000.00.
2. Billable SM&TA Minimum Goal Level: $123,000.00.
3. Number of Clients Minimum Goal Level: 110.

Other Project Specifications

1. Closing Date for Submission of this Application: August 5, 1988.
2. *Geographic Specification:* The Minority Business Development Center shall offer assistance in the geographic area of: Lubbock/Midland-Odessa, Texas SMSA.
3. *Eligiblity Criteria:* There are no eligibility restrictions for this project. Eligible applicants may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.
4. *Budget Period:* The competitive award period will be for approximately three (3) years consisting of three (3) separate budget periods. Performance evaluations will be conducted, and funding levels will be established for each of three (3) budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDA based upon the availability of funds, the MBDC's performance and Agency priorities.

[FR Doc. 88–15118 Filed 7–5–88; 8:45 am]

BILLING CODE 3510–21–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 23, 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 fourth time on 25 August 1988, from 8:00 a.m. to 5:00 p.m., at the Ogden Air Logistics Center (OA–LC), Hill AFB, UT, and on 26 August 1988 from 8:00 a.m. to 5:00 p.m., at the 421 & 388 Tactical Fighter Wings, Hill AFB, UT.

The purpose of this meeting is to receive briefings and gather information on OA–LC's and two typical fighter wings' 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. 88–15081 Filed 7–5–88; 8:45 am]

BILLING CODE 3910–01–M

Defense Logistics Agency

Membership of the Defense Logistics Agency (DLA) Performance Review Board

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice of membership of the Defense Logistics Agency Performance Review Boards.

SUMMARY: This notice announces the appointment of the members of the Performance Review Boards (PRBs) of the Defense Logistics Agency. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance and performance awards to the Director, Defense Logistics Agency.

EFFECTIVE DATE: July 6, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Herbert W. Johnson, Employee Development Specialist, Workforce Effectiveness and Development Division, Defense Logistics Agency, Department of Defense, Cameron Station, Alexandria, VA, (202) 274–6049 or 274–6039.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names and titles of the executives who have been appointed to serve as members of the Performance Review Boards. They will serve a 1-year renewable term, effective upon publication of this notice.

Initial PRB—

Mr. Gary P. Quigley, Associate Counsel, Office of General Counsel.
Mr. Raymond F. Chiesa, Executive Director, Contracting.
Mr. William V. Gordan, Executive Director, Contract Management.

2nd Level Review—

Mr. Anthony W. Hudson, Staff Director, Civilian Personnel.
Mr. William J. Cassell, Comptroller.
RADM James E. Eckelberger, SC, USN, Executive Director, Supply Operations.

Anthony W. Hudson,

Staff Director, Civilian Personnel

[FR Doc. 88–15071 Filed 7–5–88; 8:45 am]

BILLING CODE 3620–01–M

Department of the Navy

Privacy Act of 1974; Amended Record System

AGENCY: Department of the Navy, DoD.

ACTION: Notice of an amended system of records subject to the Privacy Act.

SUMMARY: The Department of the Navy is amending a system of records subject to the Privacy Act, as amended (5 U.S.C. 552a).

DATES: This proposed action will be effective without further notice on or before August 5, 1988, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mrs. Gwen Aitken, Head, PA/FOIA Branch, Office of the Chief of Naval Operations

(OP-09B30), The Pentagon, Room 5E521, Department of the Navy, Washington, DC 20350-2000, telephone 202-697-1459, autovon: 227-1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices inventory subject to the Privacy Act of 1974 have been published in the **Federal Register** as follows:

FR Doc 86-8485 (51 FR 12908) April 16, 1986
FR Doc 86-10763 (51 FR 18086) May 16, 1986 (Compilation)
FR Doc 86-12448 (51 FR 19884) June 3, 1986
FR Doc 86-19207 (51 FR 30377) August 26, 1986
FR Doc 86-19208 (51 FR 30393) August 26, 1986
FR Doc 86-28835 (51 FR 45931) December 23, 1986
FR Doc 87-1144 (52 FR 2147) January 20, 1987
FR Doc 87-1145 (52 FR 2149) January 20, 1987
FR Doc 87-5783 (52 FR 8500) March 18, 1987
FR Doc 87-9686 (52 FR 15530) April 29, 1987
FR Doc 87-10428 (52 FR 17294) May 7, 1987
FR Doc 87-13560 (52 FR 22671) June 15, 1987
FR Doc 87-27707 (52 FR 45846) December 2, 1987
FR Doc 87-10871 (52 FR 17240) May 16, 1988
FR Doc 87-12862 (52 FR 21512) June 8, 1988
FR Doc 87-13202 (52 FR 22028) June 13, 1988

The specific changes to the record system being amended is set forth below, followed by the system notice, as amended, published in its entirety. This amendment is not within the purview of the provision of 5 U.S.C. 552a(o), which requires the submission of a new or altered system report.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

June 29, 1988.

N05822-1

System name:

Otsu Prison Health and Comfort Items (51 FR 18175, May 16, 1986).

Changes:

System name:

Delete the word: "Otsu" and substitute with: "Yokosuka * * *"

Categories of records in the system:

In line three, delete the word: "* * * Otsu * * *" and substitute with: "* * * Yokosuka * * *"

N05822-1

System name:

Yokusuka Prison Health and Comfort Items.

System location:

Commander Fleet Activities, FPO Seattle 98762

Categories of individuals covered by the system:

Individuals who have been imprisoned under Japanese Law and jurisdiction for various offenses.

Categories of records in the system:

Record of request for, receipt of, and issues to of individuals imprisoned in Yokosuka Prison located in Yokosuka, Japan.

Authority for maintenance of the system:

5 USC 301, Departmental Regulations.

PURPOSE(S):

Used for billing armed services, other than Navy and Marine Corps, for items of health and comfort issued to their personnel imprisoned. Billing is prepared in accordance with existing interservice support agreements (ISSAS). Additionally, file used to answer complaints in instances where prisoners contend they are not supported properly.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder.

RETRIEVABILITY:

Alphabetically by surname. New individual files instituted with arrival of individual in prison. Previous files retrieved to semi-active for one year and thereafter destroyed without report.

SAFEGUARDS:

Files maintained in locked file cabinet in locked office.

RETENTION AND DISPOSAL:

Destroyed without report after two years.

SYSTEM MANAGER(S) AND ADDRESS:

Commander Fleet Activities, FPO Seattle 98762.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the systems manager listed above and provide, as a minimum, the following information: Rank/rate, full name, branch of service, and social security number. Files maintained in logistics with command and requesters may visit this office for review of their files during normal working hours. Proof of identification limited Armed Forces Identification Cards or Passports.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the systems manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the systems manager.

RECORD SOURCE CATEGORIES:

Prison officials.

EXCEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 88-15101 Filed 7-5-88; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION. Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an information collection requirement concerning FAR Subpart 27.2, Patents.

ADDRESS: Send comments to Mr. Ed Springer, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. John O'Neill, Office of Federal Acquisition and Regulatory Policy, (202) 523-3847.

SUPPLEMENTARY INFORMATION: a. *Purpose:* The Patent Coverage in FAR Subpart 27.2 requires the contractor to report each notice of a claim of patent or copyright infringement that came to the contractor's attention in connection with performing a Government contract above a dollar value of $25,000 (27.202-1, 52.227-2). The contractor is also required to report all royalties anticipated or paid in excess of $250 for the use of patented inventions by furnishing the name and address of

licensor, date of license agreement, patent number, brief description of item or component, percentage or dollar rate of royalty per unit, unit price of contract item, and number of units (27.204–1, 52.227–6, 52.227–9). The information collected is to protect the rights of the patent holder and the interest of the Government.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, *30*; responses per respondent, *1*; total annual responses, *30*; preparation hours per response, *.5* hr; and total response burden hours, *15*.

Obtaining copies of proposals: Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–00XX, Patents.

Dated: June 23, 1988.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 88–15088 Filed 7–5–88; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER88–482–000 et al.]

Southern California Edison 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. Southern California Edison

[Docket No. ER88–482–020]

June 28, 1988

Take notice that on June 15, 1988, Southern California Edison Company (Edison) tendered for filing, pursuant to § 35.15 of the Federal Energy Regulatory Commission's Regulations (18 CFR 35.15) under the Federal Power Act, a Notice of Cancellation of the Agreement for Interim Operating Procedures with the following entities (Cities):

Entity	Rate schedule FERC No.
1. City of Anaheim	95.11
2. City of Azusa	144.8
3. City of Banning	145.8
4. City of Colton	146.8
5. City of Riverside	94.13

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: July 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Gas and Electric Company

[Docket No. EC88–22–000]

June 28, 1988.

Take notice that on June 23, 1988, Pacific Gas and Electric Company (PG&E) tendered for filing an application pursuant to section 203 of the Federal Power Act for authorization for PG&E to sell and convey to the Department of Water Resources of the State California (DWR) an interest in PG&E's Midway-Wheeler Ridge transmission system.

PG&E, incorporated in the State of California, provides electric and gas service throughout Northern California. It also distributes and sells water in some cities, towns and rural areas and produces and sells steam in certain parts of San Francisco.

Comment date: July 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Potomac Edison Company

[Docket No. ER88–480–000]

June 28, 1988.

Take notice that on June 20, 1988, Potomac Edison Company (Company) tendered for filing a change in its Electric Service Agreement with the City of Hagerstown, Maryland (City). The change revises Appendix A to that Agreement to increase the maximum and transfer capacities for firm and emergency (or maintenance) service of the three service connections between the Company and the City. The Company has requested that the revised Appendix A be deemed effective as of November 1, 1987.

Copies of this filing have been served upon the City and upon the Maryland Public Service Commission.

Comment date: July 11, 1988, in accordance with Standard Paragraph E at the end of this document.

4. Virginia Electric and Power Company

[Docket No. ER88–481–000]

June 28, 1988.

Take notice that on June 14, 1988, Virginia Electric and Power Company (Company) tendered for filing an addendum to a Settlement Agreement dated as of October 16, 1987 between the Company and Old Dominion Electric Cooperative (ODEC). The addendum would limit the percentage adder applicable to emergency purchases to one mill per kilowatt-hour.

Waiver of the Commission's notice requirements is requested so as to permit an effective date of June 1, 1988.

Copies of the filing have been served on ODEC, the Virginia States Corporation Commission and the North Carolina Utilities Commission.

Comment date: July 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Pool

[Docket No. ER88–483–000]

June 28, 1988.

Take notice that on June 23, 1988, New England Power Pool (NEPOOL) Executive Committee tendered for filing an Amendment to NEPOOL Agreement, dated as of May 1, 1988, (AMENDMENT) which changes provisions of the NEPOOL Agreement (NEPOOL FPC No. 2), dated as of September 1, 1971, as previously amended by twenty-four (24) amendments.

The NEPOOL Executive Committee states that the AMENDMENT is in thirteen parts and changes various provisions of the NEPOOL Agreement to adjust the way in which the pool prices energy service received by pool participants in each hour and to revise the way in which certain savings resulting from the pool's central dispatch are divided among the participants. Furthermore, the Committee states that the AMENDMENT revises the NEPOOL Agreement to clarify the authority of the Management Committee and to adjust the formulae for determining transmission charges to conform to the principal changes made by the AMENDMENT and to changes made by a prior amendment to the NEPOOL Agreement that became effective, subject to refund, on November 1, 1986.

The NEPOOL Executive Committee has requested that the AMENDMENT be permitted to become effective on the date specified therein, November 1, 1988, and that the Commission waive its notice requirements to permit the filing to be made more than 120 days prior to the proposed effective date.

Comment date: July 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Idaho Power Company

[Docket No. ES88–44–000]

June 29, 1988.

Take notice that on June 21, 1988, Idaho Power Company (Applicant) filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act,

seeking an Order authorizing the issuance and sale of up to $100,000,000 of First Mortgage Bonds of the Applicant.

Comment date: July 20, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Pargraph

E. Any person desiring to be heard 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. 88-15110 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8790-000]

City of Aberdeen, WA; Availability of Environmental Assessment

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 minor license for the proposed Wishkah Hydro-electric Project No. 8790 and has prepared an Environmental Assessment (EA) for the proposed project. The project would utilize pipeline flow from the City's existing Malinowksi Dam, located on the Wishkah River in Grays Harbor County, Washington. In the EA, the Commission's staff has analyzed the potential environmental impacts of the project and has concluded that approval of the 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. 88-15139 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5357-004]

North Board of Control; Owyhee Project Irrigation Districts; Availability of Environmental Assessment

June 30, 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 amendment of license for the Mitchell Butte Hydroelectric 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 project and has concluded that approval of the proposed amendment, 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. 88-15140 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8121-000]

Warren B. Nelson; Availability of Environmental Assessment

June 30, 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 minor license for the proposed Deer Creek Hydroelectric 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 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. 88-15141 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-19-114]

Hydroelectric Development in the Upper Ohio River Basin; Public Meeting on the Draft Environmental Impact Statement

June 30, 1988.

The staff of the Federal Energy Regulatory Commission has issued a Draft Environmental Impact Statement (EIS) for Hydroelectric Development in the Upper Ohio River Basin, FERC Docket No. EL85-19-114. The draft EIS was sent to the Environmental Protection Agency and was made available to the public on or about May 10, 1988.

The draft EIS documents the views of the Commission's staff and includes staff recommendations on licensing 24 proposed hydroelectric projects at 19 sites. Before the Commission makes a decision on issuing licenses for the projects, it will take into account all concerns relevant to the public interest. The final EIS will be part of the record from which the Commission will make its decision.

Applicants, Federal, state, and local agencies, and interested persons are invited to attend a public meeting and to express their views about the draft EIS. The meeting will be held on Friday, July 15, 1988, from 10:00 a.m. to 3:00 p.m. at the William S. Moorhead Federal Building (in Room 200), 1000 Liberty Avenue in Pittsburgh, Pennsylvania.

The Commission's staff will conduct the public meeting. At this meeting, persons may make statements orally or in writing. The meeting will be recorded by a stenographer, and all statements, oral and written, will become part of the public hearing record.

For further information on the public meeting, contact project manager George Taylor at (202) 376-1900 or attorney William O. Blome at (202) 357-8131.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15138 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-507-000 et al.]

Columbia Gas Transmission Corp. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Columbia Gas Transmission

[Docket No. CP88-507-000]

June 28, 1988.

Take notice that on June 23, 1988, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Viriginia 25314, filed in Docket No. CP88-507-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act stating that Columbia proposes to transport natural gas on behalf of Citizens Gas Supply Corporation (Shipper) under the blanket certificate issued in Docket No. CP86-240-000, pursuant to section 7(c) 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.

Specifically, Columbia proposes to transport on an interruptible basis up to 1,000,000 MMBtu equivalent of natural gas per day for Shipper under two transportation service agreements attached to the filing. Columbia projects its average day and annual quantities would be 25,000 and 5,500,000 MMBtu, of natural gas per day respectively.

Columbia states that no facilities would be constructed to provide the service, and that receipt and delivery points are on file with the Commission and are spcified in the service agreements. Columbia states that gas has been flowing pursuant to the service agreements since March 5, 1988 under authority of § 284.223(a) of the Commission's Regulations, the notice of which was docketed by the Commission at Docket No. ST88-3553.

Columbia further states that to its knowledge no agency relationship exists under which a local distribution company or affiliate of the Shipper will receive gas on behalf of the Shipper under this transportation arrangement.

Comment date: August 12, 1988, in accordance with standard Paragraph G at the end of this notice.

2. Transcontinental Gas Pipe Line Corporation

[Docket No. CP88-487-000, CP88-492-000, CP88-493-000, CP88-494-000, CP88-495-000, CP88-496-000, CP88-497-000, CP88-498-000, CP88-499-000, CP88-500-000, CP88-501-000, CP88-502-000, CP88-503-000, CP88-504-000, CP88-505-000, and CP88-506-000]

June 28, 1988.

Take notice that on June 21, 1988 and June 23, 1988, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket Nos. CP88-487-000, *et al.*, applications pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon firm sales entitlement to sixteen customers, all as more fully set forth in the applications on file with the Commission and open to public inspection.[1]

Transco states that pursuant to § 284.10 of the Commission's Regulations, the customers, as noted in the Appendix, converted firm sales entitlements under their respective Service Agreements to firm transportation under Transco's Rate Schedule FT. Transco states that it now requests to abandon firm sales entitlement to each customer associated with the reductions in firm sales service to be effective as of the dates noted on the Appendix. Transco states that pursuant to § 284.10(f)(2), the exercise of contract conversion rights by a firm sales customer under § 284.10(d) constitutes consent by that customer to the abandonment of sales service to the extent of the conversion.

[1] See attached appendix for details of each application, including customer name, rate schedule, revised sales entitlement, etc.

APPENDIX

Docket No. CP88-	Filed	Customer	Rate schedule	Firm sales entitlement (Mcf/d)			Effective date of reduction
				Current	Reduction	Revised	
Comment date: July 19, 1988, in accordance with Standard Paragraph F at the end of this notice.							
487-000	6/21/88	Philadelphia Gas Works	CD-3	159625	23944	135681	12/1/87
492-000	6/23/88	Long Island Light Company	CD-3	149070	34438	114632	11/1/87
493-000	6/23/88	Consolidated Edison Company of New York, Inc.	CD-3	324522	48678	275844	11/1/87
494-000	6/23/88	Piedmont Natural Gas Company, Inc	CD-2	205200	30780	174420	11/1/87
495-000	6/23/88	UGI Corporation	OG-3	4900	735	4165	11/1/87
				4165	4165	0	5/1/88
496-000	6/23/88	Public Service Electric and Gas Company	CD-3	411527	144928	266599	11/1/87
				266599	38647	227952	5/1/88
497-000	6/23/88	The Brooklyn Union Gas Company	CD-3	237638	115942	121696	11/1/87
498-000	6/23/88	Atlanta Gas Light Company	CD-1	107600	16140	91460	5/1/88
499-000	6/23/88	Lynchburg Gas Company	CD-2	12000	1750	10250	11/1/87
500-000	6/23/88	Elizabethtown Gas Company	CD-3	75126	35424	39702	5/1/88
501-000	6/23/88	Washington Gas Light Company	CD-2	55000	8250	46750	11/1/87
502-000	6/23/88	North Carolina Natural Gas Corporation	CD-2	141000	20290	120710	11/1/87
503-000	6/23/88	Public Service Company of North Carolina, Inc.	CD-2	158600	23790	134810	11/1/87
504-000	6/23/88	Clinton-Newberry Natural Gas Authority	CD-2	9100	1353	7747	1/1/88
505-000	6/23/88	Philadelphia Electric Company	CD-3	126702	7641	119061	11/1/87
				119061	11364	107697	5/1/88
506-000	6/23/88	South Carolina Pipeline Corporation	CD-2	29300	4395	24905	6/1/88

3. Florida Gas Transmission Company

[Docket No. CP88-488-000]

June 29, 1988.

Take notice that on June 22, 1988, Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas, 77251, filed in Docket No. CP88-488-000 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 new delivery point to an existing resale customer, Peoples Gas System, Inc. (PGS), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

FGT proposes to construct and operate a sales tap on FGT's existing 18-inch and proposed 20-inch [2] main transmission line in Osceola County, Florida, in order to make sales to PGS of up to 36,167 therms of natural gas per day. The estimated $284,682.00 cost of the delivery point will be borne by PGS, it is stated.

FGT states that the new meter station will allow PGS to more efficiently serve it markets by allowing it to serve existing and new markets from a new location, thus reducing the occurrence of pressure problems for PGS. FGT asserts that the total volumes to be delivered to PGS would not exceed PGS's existing Annual Volumetric Entitlement (AVE) for the Orlando Division.

FGT states that the new delivery point will result in a minimal increase in deliveries to PGS on an average day. Based upon the current flow characteristics of FGT's system, FGT states that there should be no detriment or disadvantage to its existing resale and direct sale customers as a result of the proposed construction. FGT asserts that the volumes to be delivered at the proposed delivery point are not prohibited by FGT's tariff.

Comment date: August 15, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. OXY USA Inc.

[Docket No. CI87-233-001]

June 29, 1988.

Take notice that on June 13, 1988, OXY USA Inc. (OXY), formerly Cities Service Oil and Gas Corporation, of 110 West 7th Street, Tulsa, Oklahoma 74119, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and Parts 154 and 157 of the Commission's Regulations requesting extension and amendment of its blanket limited-term certificate with pregranted abandonment issued August 4, 1987, in Docket No. CI87-233-000. OXY's certificate authorizes the sale of previously uncommitted gas from Ship Shoal Block 91, Eugene Island Block 208 "H" and other unspecified sources for a one-year term. OXY's certificate also authorizes the sale of OXY's previously certificated and abandoned gas from the Wilbert "E" well located in Iberville Parish, Louisiana, for a three-year term. OXY requests extension of its authorization covering uncommitted gas for an unlimited term and amendment of such authorization to include the sale for resale in interstate commerce of NGA gas purchased from or exchanged with other producers or marketing entities that was previously certificated or contractually uncommitted and for which the producer or supplier has the necessary sales and abandonment authorization. OXY also requests that the blanket authorization to make sales for resale in interstate commerce of its previously certificated and abandoned gas (from the Wilber "E" well) be terminated under the subject docket and that future sales of this gas be covered under the blanket certificate and pregranted abandonment authorized in § 157.301 of the Commission's Regulations pursuant to Order No. 490, issued February 5, 1988, in Docket No RM87-16-000. The application is on file with the Commission and open to public inspection.

Comment date: July 13, 1988, in accordance with Standard Paragraph J at the end of the notice.

5. Natural Gas Pipeline Company of America

[Docket No. CP88-476-000]

June 29, 1988.

Take notice that on June 17, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP88-476-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport, on an interruptible basis, up to 100,000 MMBtu of natural gas on an average day and a maximum of 300,000 MMBtu of natural gas on a peak day (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS) for Chevron U.S.A. Inc. (Chevron), a natural gas producer. Natural proposes to transport Chevron's gas under its blanket certificate issued in Docket No. CP86-582-000 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 states that it commenced the proposed transportation service for Chevron on April 28, 1988, at Docket No. ST88-3612 for a one-hundred twenty-day period ending August 26, 1988, pursuant to § 284.223(a)(1) of the Commission's Regulations and the blanket certificate issued to Natural in Docket No. CP86-582-000. Natural proposes to continue this transportation service in accordance with §§ 284.221 and 284.223(b) of the Commission's Regulations. Natural states that it would receive Chevron's natural gas volumes at receipt points in Louisiana, offshore Louisiana, New Mexico, Oklahoma, Texas, offshore Texas, and Wyoming, and deliver the gas at delivery points in Louisiana, offshore Louisiana, and Texas.

Comment date: August 15, 1988, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

[2] FGT has on file with the Commission in Docket No. CP86-704 an application to construct a 20-inch line looping its 18-inch line in this area.

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed 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.

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15112 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-478-000 et al.]

United Gas Pipe Line Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Company)

[Docket No. CP88-478-000]

June 27, 1988.

Take notice that on June 20, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP88-478-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing United to establish an Authorized Overrrun Service (AOS) together with pre-granted abandonment authority, consistent with what was originally proposed by United in the context of its curtailment proceeding in Docket No. TC88-6-000, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

United States that the tariff sheets filed in Docket No. TC88-6-000 are intended to implement a new system management plan on United's system in conjunction with open access operations United States that a central element of the system management plan is a system of annual renominations by United's firm customers of their monthly service requirements. United explains that in connection with these service nominations, the plan also contemplates that AOS services be available as an option to customers who exceed their nominated sales or transportation levels. United notes that in an order issued February 12, 1988, in Docket No. TC88-6-000, the Commission tentatively approved most of the provisions of the proposed management plan, but determined that United lacked the certificate authority to provide all of the proposed AOS services to its customers and directed United to file for such authorization. United further notes that in its "Order Denying Rehearing" issued May 20, 1988, the Commission reaffirmed that requirement. The subject application, it is indicated, is United's response to the above mentioned Commission orders.

United states that it is requesting authority to offer overrrun services in excess of nominated service levels, but within existing Maximum Daily Quantities (MDQs), to: (1) Its jurisdictional sales customers, (2) its non-jurisdictional direct sales customers, and (3) its certificated firm and interruptible transportation customers. It is indicated that AOS services would only be offered on an if, as and when available basis and will be subordinate to all other firm and interruptible services. United proposes that the rates for AOS would be those specified in United's existing overrun rate schedules, specifically Rate Schedule AOS (applicable to jurisdictional sales customers) and the AOT rates (applicable to Rate Schedule ITS and FTS transportation customers). United states that in the case of non-jurisdictional sales customers, the rate would be determined by according to the individual contracts. United requests pre-granted abandonment authority to cease providing AOS under the certificate in the event that disapproval of or modification to the underlying system plan render the AOS service no longer applicable.

Comment date: July 18, 1988, in accordance with Standard Paragraph F at the end of this notice.

2. Williams Natural Gas Company

[Docket No. CP80-499-009]

June 29, 1988.

Take notice that on June 14, 1988, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74102, filed a petition to amend the order issued December 22, 1980, in Docket No. CP80-499-000, as further amended, pursuant to section 7(c) of the Natural Gas Act so as to authorize a one-year extension of its limited-term off-system sale to El Paso Natural Gas (El Paso) with pre-granted abandonment, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that WNG petitions to extend its off-system sale of up to 100,000 Mcf of natural gas per day to El Paso for a limited term of one year with pre-granted abandonment. WNG indicated that Natural Gas Pipeline Company of America (NGPL), which has accepted an open-access transportation certificate, would deliver the natural gas volumes for WNG's account to El Paso at an existing interconnecting point in Lea County, New Mexico.

WNG last received authorization to make this off-system sale to El Paso on May 5, 1987, in the amended order issued in Docket No. CP80-499-008, 39 FERC ¶61,080, for a term of one year.

Comment date: July 20, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Texas Eastern Transmission Corporation

[Docket No. CP88-474-000]

June 29, 1988.

Take notice that on June 17, 1988, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521 Houston, Texas 77252 filed in Docket No. CP88-474-000 a request pursuant to § 157.208 of the Regulations under the Natural Gas Act for authorization to construct and operate certain offshore pipeline facilities under the blanket certificate issued in Docket No. CP87-535-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with

the Commission and open to public inspection.

Texas Eastern requests authority to construct and operate approximately 13.0 miles of 24-inch pipeline and 0.3 miles of 16-inch pipeline, extending from the terminus of Texas Eastern's existing 24-inch pipeline No. 40–B–4 in Main Pass Area Block 165, offshore Louisiana, to production facilities in Viosca Knoll Area Block 203, offshore Louisiana. Texas Eastern states that the purpose of the proposed pipeline is to connect gas reserves for system supply of transportation in Viosca Knoll Area Block 203, offshore Louisiana. It is further stated that the proposed facilities would enable Texas Eastern to expand its system into an area of rapidly growing reserve potential.

Texas Eastern asserts that it has executed a gas purchase contract with Santa Fe Energy which provides for the commitment of 33.33 percent of the gas reserves in Viosca Knoll Block 203. Texas Eastern estimates the total reserves in the field to be 88 Bcf with a deliverability of 70,000 Mcf per day. Texas Eastern states that it anticipates that it will either acquire the remaining non-dedicated reserves or provide transportation of the reserves.

Texas Eastern states that the estimated cost of the proposed facilities is $12,672,000 and that the facilities would be financed initially through funds on hand with permanent financing undertaken as part of a long-term program at a later date.

Comment date: August 15, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. Zapata Exploration Company

[Docket No. CI87–340–001]

June 29, 1988.

Take notice that on June 13, 1988, Zapata Exploration Company (Zapata), c/o Mayor, Day & Caldwell, 1900 RepublicBank Center, 700 Louisiana Street, Houston, Texas 77002, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and Parts 154 and 157 of the Commission's Regulations requesting extension of its blanket limited-term certificate with pregranted abandonment which expires August 4, 1988, for an unlimited term. Zapata's certificate authorizes the sale of previously uncommitted gas from Blocks 109, 110 and 154, East Breaks Area, Offshore Texas. This application is on file with the Commission and open to public inspection.

Comment date: July 13, 1988, in accordance with Standard Paragraph J at the end of this notice.

5. Sunrise Energy Company

[Docket No. CI87–873–001]

June 29, 1988.

Take notice that on June 6, 1988, Sunrise Energy Company (Sunrise), formerly Sunshine Energy Company, of Suite 645, 8150 North Central Expressway, Dallas, Texas 75206, filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for amendment of its blanket limited-term certificate with pregranted abandonment previously issued by the Commission for a term which expired March 31, 1988, to extend such authorization for an unlimited term, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: July 13, 1988, in accordance with Standard Paragraph J at the end of this notice.

6. CNG Producing Company, et al.)

[Docket No. CI88–481–000, et al.] [1]

June 29, 1988.

Take notice that each Applicant listed herein has filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for a blanket limited-term certificate with pregranted abandonment authorization for the term listed herein, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

Docket No. and date filed	Applicant	Requested term of authorization
CI88–481–000 6/8/88.	CNG Producing Company, Canal Place One, Suite 3100, New Orleans, Louisiana 70130.	1 year.
CI88–490–000, 6/13/88.	Texcol Gas Services, Inc., Coastal Tower, 9 Greenway Plaza, Houston, Texas 77046.	3 years.

Comment date: July 13, 1988, in accordance with Standard Paragraph J at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 3825.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (128 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for fiing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15111 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-512-000 et al.]

United Gas Pipe Line Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Company

[Docket No. CP88-512-000]

June 29, 1988.

Take notice that on June 24, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP88-512-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a transportation service on behalf of MidCon Marketing Corporation (MidCon) under United's blanket certificate issued in Docket No. CP88-6-000 on January 15, 1988, 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.

United states that pursuant to a transportation agreement dated February 18, 1988, it proposes to transport natural gas for MidCon, from 26 points of receipt located offshore Louisiana and in the state of Louisiana, to a delivery point on United's system in St. Mary Parish, Louisiana.

United further states that the peak day quantities would be 206,000 MMBtu, the average daily quantities would be 206,000 MMBtu and that the annual quantities would be 75,190,000 MMBtu. It is stated, service under § 284.223(a) commenced March 4, 1988, as reported in Docket No. ST88-3426 (filed May 2, 1988).

United further requests a waiver of the 120-day limitation to the extent necessary to continue transportation service for MidCon without interruption.

Comment date: August 15, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. Williams Natural Gas Company

[Docket No. CP88-479-000]

June 30, 1988.

Take notice that on June 20, 1988, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP88-479-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate an additional delivery point in Buchanan County, Missouri for the sale and delivery of gas to the Kansas Power and Light Company (KP&L), under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that KP&L has requested this additional delivery point in order to serve the hydrogen plant of AG Processing Company (AG Processing) in St. Joseph, Missouri. WNG indicates that the projected volume of delivery through these facilities is 150,000 Mcf per year with a maximum peak load of 450 Mcf per day the first year increasing to 300,000 Mcf per year and 900 Mcf per day the second year and remaining constant thereafter. Williams proposes to tap its 16-inch pipeline in Buchanan County, Missouri and to construct measuring, regulating, and appurtenant facilities for the delivery of gas to KP&L for resale to AG Processing. WNG estimates the cost of construction at $30,210 which would be paid from treasury cash.

WNG states that this change is not prohibited by an existing tariff and that it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Comment date: August 15, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP88-513-000]

June 29, 1988.

Take notice that on June 24, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP88-513-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service on behalf of Mobil Oil Exploration and Producing Southeast, Inc. (Mobil), a natural gas producer, under its blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that pursuant to an Interruptible Gas Transmission Agreement dated March 21, 1988, United would transport up to a maximum daily quantity of 20,600 MMBtu of natural gas per day. United further states that service commenced April 4, 1988, as reported in Docket No. ST88-3422, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: August 15, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. United Gas Pipe Line Company

[Docket No. CP88-515-000]

June 29, 1988.

Take notice that on June 24, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251-1487, filed in Docket No. CP88-515-000, a request pursuant to § 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 284.223) for authority to provide interruptible transportation service to Tejas Power Corporation (Tejas) a natural gas marketer, under United's blanket certificate issued January 15, 1988, in Docket No. CP88-6-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes an interruptible transportation service for Tejas of up to 30,900 MMBtu of natural gas per day or approximately 11,278,500 MMBtu of gas annually pursuant to a transportation agreement dated February 17, 1988, from a receipt point located in the NW. Oberlin Field, Allen Parish, Louisiana, to a delivery point located in Lafayette Parish, Louisiana, or a delivery point located in Calcasieu Parish, Louisiana.

United states that it reported to the Commission the date of commencement of service as March 1, 1988, in Docket No. ST88-4134, pursuant to the 120-day automatic authorization provisions of § 284.223(a) of the Commission's Regulations.

United requests a waiver of the 120-day limitation to the extent necessary to

continue the transportation service for Tejas without interruption. United reports the delay in filing a timely request for authorization is due to administrative problems related to establishing new reporting procedures.

Comment date: August 15, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. United Gas Pipeline Company

[Docket No. CP88-518-000]

June 29, 1988.

Take notice that on June 24, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP88-518-000, a request pursuant to § 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 284.223) for authority to provide interruptible transportation service to Tejas Power Corporation (Tejas) a natural gas marketer, under United's blanket certificate issued January 15, 1988, in Docket No. CP88-6-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes an interruptible transportation service for Tejas of up to 30,900 MMBtu of natural gas per day or approximately 11,278,500 MMBtu of gas annually pursuant to a transportation agreement dated March 23, 1988, from a receipt point located near McFaddin, Victoria County, Texas to a delivery point located in Rapides Parish, Louisiana.

United stated that it reported to the Commission the date of commencement of service of April 6, 1988, in Docket No. ST88-4274, pursuant to the 120-day automatic authorization provisions of § 284.223(a) of the Commission's Regulations.

United requests a waiver of the 120-day limitation to the extent necessary to continue the transportation service for Tejas without interruption. United reports the delay in filing a timely request for authorization is due to administrative problems related to establishing new reporting procedures.

Comment date: August 15, 1988, in accordance with Standard Paragraph G at the end of this notice.

6. United Gas Pipeline Company

[Docket No. CP88-517-000]

June 29, 1988.

Take notice that on June 24, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251 filed in Docket No. CP88-517-000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas for Cities Service Oil and Gas Corporation (Cities Service). United explains that service commenced April 1, 1988 under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88-3546. United also requests waiver of the 120-day limitation to the extent necessary to continue service for Cities Service without interruption. United explains that the peak day quantity would be 30,900 dekatherms, the average daily quantity would be 30,900 dekatherms, and that the annual quantity would be 11,278,500 dekatherms. United explains that it would receive natural gas for Cities Service's account at points of receipt in Texas and Louisiana. United states that it would redeliver the gas for Cities Service's account at an existing interconnection between United and Clajon Industria Gas, Inc. in Ascension Parish, Louisiana.

Comment date: August 15, 1988, in accordance with Standard Paragraph G at the end of this notice.

7. United Gas Pipeline Company

[Docket No. CP88-514-000]

June 29, 1988.

Take notice that on June 24, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251 filed in Docket No. CP88-517-000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas for Oxy Cities Service NGL, Inc. (Oxy). United explains that service commenced April 1, 1988 under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88-3542. United also requests waiver of the 120-day limitation to the extent necessary to continue service for Oxy without interruption. United explains that the peak day quantity would be 1,545 dekatherms, the average daily quantity would be 1,545 dekatherms, and that the annual quantity would be 563,925 dekatherms. United explains that it would receive natural gas for Oxys' account at an existing interconnection between United and Cities Service Oil Company in Gregg County, Texas. United states that it would redeliver the gas for Oxys' account at an existing interconnection between United and Dal-Tile Corp. in Dallas County, Texas.

Comment date: August 15, 1988, in accordance with Standard Paragraph G at the end of this notice.

8. United Gas Pipeline Company

[Docket No. CP88-511-000]

June 29, 1988.

Take notice that on June 24, 1988, United Gas Pipe Line Company, (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP88-511-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a transportation service on behalf of MidCon Marketing Corporation (MidCon) under United's blanket certificate issued in Docket No. CP88-6-000 on January 15, 1988, 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.

United states that pursuant to a transportation agreement dated March 8, 1988, it proposes to transport natural gas for MidCon, from eighteen points of receipt located in the state of Louisiana, to a delivery point on United's system in Oachita Parish, Louisiana.

United further states that the peak day quantities would be 103,000 MMBtu, the average daily quantities would be 103,000 MMBtu and that the annual quantities would be 37,595 MMBtu. It is stated, service under § 284.223(a) commenced March 11, 1988, as reported in Docket No. ST88-3420 (filed May 2, 1988).

United further requests a waiver of the 120-day limitation to the extent necessary to continue transportation service for MidCon without interruption.

Comment date: August 15, 1988, in accordance with Standard Paragraph G at the end of this notice.

9. Tennessee Gas Pipeline Company

[Docket No., CP88-480-000]

June 30, 1988.

Take notice that on June 20, 1988, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-480-000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP87-115-000

pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes to transport natural gas for Energy Buyers Service Corporation (Energy Buyers). Tennessee explains that service commenced May 21, 1988 under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88–4227. Tennessee further explains that the peak day quantity would be 20,000 dekatherms, the average daily quantity would be 151 dekatherms, and that the annual quantity would be 55,115 dekatherms. Tennessee explains that it would receive natural gas for Energy Buyers' account from a point of receipt located in Texas. Tennessee states that the points of delivery are located in the states of Pennsylvania, New Jersey, New York, West Virginia, Ohio, Kentucky, Massachusetts, and Connecticut. Tennessee further explains that locations of the ultimate delivery point of the gas are in the states of Ohio, Pennsylvania, New York and Connecticut.

Comment date: August 15, 1988, in accordance with Standard Paragraph G at the end of this notice.

10. Transcontinental Gas Pipe Line Corporation

[Docket No. CP88–489–000]

June 30, 1988.

Take notice that on June 22, 1988, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP88–489–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing certain firm transportation services for 15 customers in conjunction with conversions from firm sales elected by those customers, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Transco requests authorization pursuant to section 7(c) of the Natural Gas Act, in lieu of authority existing under section 311 of the NGPA, to transport for customers on a firm basis, up to a maximum daily quantity (Daily Transportation Demand Quantity) of natural gas pursuant to certain service agreements under Transco's Rate Schedule FT. It is stated that Transco would receive such quantities of gas for firm transportation at various receipt points on its system. It is further stated that such gas would be redelivered at existing points of interconnection between it and each of the customers.

Transco states that each of the 15 customers has reduced its firm sales entitlement from Transco under their respective service agreements by an amount equal to the Daily Transportation Demand Quantity set forth in the service agreements (See Appendix). It is stated that such reduction in firm sales service to the customers releases the capacity on Transco's mainline necessary to provide the firm transportation requested. Transco notes that the conversions from firm sales to firm transportation have been exercised by the customers in accordance with the conversion rights accorded them by Transco's Commission approved Order No. 426/500 settlement.

Transco asserts that in order to secure the most economically priced gas available, customers require flexibility in sources of gas supply. It is averred that such alternative sources involve changes in the points of receipt by agreement with Transco, but would not involve any increase in firm capacity entitlement on Transco's mainline. Consequently, Transco requests flexible authority to undertake certain filing requirements to advise the Commission in the event customers obtain different sources of supply requiring additions or deletions of points of receipt in furtherance of the transportation authority requested in the application. Transco indicates that upon implementation of the requested flexible authority, it would file by May 1 of each year appropriate tariff sheet revisions with the Commission reflecting additions and deletions of points of receipt during the preceeding calendar year.

APPENDIX—CONVERSIONS FOR WHICH SECTION 7 CERTIFICATE AUTHORITY IS REQUESTED

Customer	(Mcf/d) original CD	(Mcf/d) revised CD	(Mcf/d) FT
Atlanta Gas Light	107,600	91,460	16,140
Brooklyn Union	237,638	121,696	115,942
Clinton-Newberry	9,100	7,747	1,353
Consolidated Edison	324,522	275,844	48,678
Elizabethtown	75,126	39,702	35,424
Long Island Lighting	149,070	114,632	34,438
Lynchburg	12,000	10,250	1,750
North Carolina Natural	141,000	120,710	20,290
Philadelphia Electric	149,061	114,632	34,438
Piedmont	205,200	174,420	30,780
PSE&G	411,527	227,952	183,575
PSNC	158,600	134,810	23,790
South Carolina P/L	29,300	24,905	4,395
UGI	4,900	0	4,900
Washington Gas Light	55,000	46,750	8,250

Comment date: July 21, 1988, in accordance with Standard Paragraph F at the end of this notice.

11. Texas Gas Transmission Corporation

[Docket No. CP86–143–011]

June 30, 1988.

Take notice that on May 25, 1988, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP86–143–011 a petition to further amend the order issued in Docket No. CP86–143–000, as amended, pursuant to section 7(c) of the Natural Gas Act, so as to modify the existing transportation service by increasing contract demand and adding receipt points, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that Texas Gas was authorized in Docket No. CP86–143–000 to transport natural gas on behalf of 52 customers. Texas Gas proposes herein to modify the existing service by increasing contract demand for four customers and to add receipt points for 42 customers (see appendix for details). It is asserted that in all other aspects the existing transportation service, as authorized, would remain the same.

Customer	*Proposed Contract Demand (MMBtu/day)*
Carrollton/Dow Corning	5,000
Elizabethtown/Crucible Magnetics	1,000
Western Kentucky Gas/General Tire	8,400
Western Kentucky/Southwire Company	1,540

Customers with Additional Receipt Points

ARMCO Inc.
Brownsville/Haywood
Carrollton/Dow Corning

Elizabethtown/Crucible Magnetics
Elizabethtown/Dow Corning
Elizabethtown/Gates Rubber
Franklin Boxboard
Georgia-Pacific
Illinois Gas/Pioneer Asphalt
Indiana Gas/Fairfield
Indiana Gas/U.S. Gypsum
Indiana Gas/Knauf Fiber Glass
Jackson/Procter & Gamble
Louisville/Ralston Purina
Memphis/Buckeye
Memphis/DuPont
Memphis/Grace
Memphis/Humko
Memphis/Beatrice
Memphis/Kellogg
Memphis/Kimberly Clark
Memphis/Q.O. Chemicals
Memphis/Protein Technologies
Memphis/Regional Medical Center
Memphis/Trumbull Asphalt
Memphis/Velsicol Chemical
Middletown/Paperboard
Mississippi Valley/Archer Daniels
Mississippi Valley/System Fuels
Olin Corporation
Terre Haute/CF Industries
Western KY Gas/Alumax Aluminum
Western KY Gas/Emerson Electric
Western KY Gas/General Tire
Western KY Gas/Goodrich
Western KY Gas/Goodyear
Western KY Gas/Green River Steel
Western KY Gas/Logan Aluminum
Western KY Gas/National Southwire
Western KY Gas/Phelps Dodge
Western KY Gas/Southwire Company
Westvaco

Comment date: July 21, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

12. El Paso Natural Gas Company

[Docket No. CP88–475–000]

June 30, 1988.

Take notice that on June 6, 1988, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed an application in Docket No. CP88–475–000 pursuant to section 7(b) of the Natural Gas Act for permission and approval to (1) abandon by conveyance to ARCO Oil and Gas Company (ARCO) certain existing compression, pipeline and metering facilities with appurtenances, together described as the Hugoton System, and (2) abandon the delivery of gas on an exchange basis to Northern Natural Gas Company, Division of Enron Corporation (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that by order issued September 17, 1968, as amended, in Docket No. CP65–384 *et al.*, El Paso was authorized, *inter alia*, to construct and operate certain facilities and to deliver to Northern on an exchange basis, natural gas purchased from Sinclair Oil & Gas Company in the Hugoton area, as provided by an exchange agreement dated March 11, 1965, as amended between El Paso and Northern.

El Paso states that based on a comprehensive review of its gas supply acquisition facilities and its market requirements, it has been determined that the continued operation of the system is no longer justified. El Paso indicates that the Hugoton System essentially serves as a gathering facility not located in close proximity to EL Paso's mainline system. El Paso also presents data indicating an excess of design capacity of the Hugoton system over the deliverability underlying the Hugoton area. El Paso states that to facilitate ARCO's existing and future gas exploration in proximity to the system and to resolve El Paso's exisitng and potential future take-or-pay exposure, El Paso and ARCO entered into a sales agreement dated May 31, 1988, permitting ARCO to acquire El Paso's Hugoton system.

Accordingly, El Paso proposes to abandon by conveyance to ARCO: (1) One 4,000 horsepower field compressor unit, (2) approximately 12.07 miles of 14-inch O.D. pipeline, and (3) one dual 8⅝ inch O.D. meter. El Paso indicates the sale price of the Hugoton System, including the above-described facilities, is $4,400,000. It is indicated that ARCO would continue to operate the Hugoton System by gathering and transporting its own volumes of gas. It is also indicated that ARCO would negotiate with Northern to facilitate the movement of gas to it market utilizing the existing interconnection is with Northern. El Paso also indicates that it has or will shortly release its purchase rights to its Hugoton System gas with ARCO which would obviate the need for the continuation of the above-mentioned El Paso-Northern exchange agreement. El Paso, therefore, requests authorization to abandon its participation in the exchange agreement.

El Paso states that the abandonment of the Hugoton System would have an insignificant effect upon El Paso's system gas supply activities and would have no significant impact upon El Paso's ability to render natural gas service to its customers.

Comment date: July 21, 1988, in accordance with Standard Paragraph F at the end of this notice.

13. Texas Gas Pipe Line Corporation

[Docket No. CP88–477–000]

June 30, 1988.

Take notice that on June 20, 1988, Texas Gas Pipe Line Corpration (Applicant), 2001 Timberloch Place, The Woodlands, Texas 77380, filed in Docket No. CP88–477–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to acquire, install and operate a 750 horsepower compressor unit, together with related facilities, at a proposed site in Jefferson County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the compressor unit, which will be acquired without charge from its affiliate, Winnie Pipeline Company, is necessary in order to modify the basic operation of Applicant's pipeline system as well as to provide greater operating flexibility and efficiency. It is stated that the cost to acquire and install the compression facilities involved is estimated to be $68,100 plus legal fees and filing fee.

Comment date: July 21, 1988, in accordance with Standard Paragraph F at the end of this notice.

14. United Gas Pipe Line Company

[Docket No. CP88–484–000]

June 30, 1988.

Take notice that on June 21, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP88–484–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide interruptible transportation service on behalf of Texaco Producing, Inc., a producer of natural gas, under United's blanket certificate issued in Docket No. CP88–6–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that the underlying interruptible gas transportation agreement was executed March 31, 1988, and provides for the transportation of a maximum daily quantity of 41,200 MMBtu from seventy-six (76) points of receipt located in Panola and Gregg Counties, Texas to a single point of delivery located in Rapides Parish, Louisiana. United further states that the service commenced April 21, 1988, as reported in Docket No. ST88–4135 on

June 10, 1988, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: August 15, 1988, in accordance with Standard Paragraph G at the end of this notice.

15. Texas Gas Transmission Corporation

[Docket No. CP87-267-001]

June 30, 1988.

Take notice that on May 26, 1988, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP87-267-001, a petition to amend the order issued in Docket No. CP87-267-000 pursuant to section 7(c) of the Natural Gas Act, so as to modify the existing transportation service for Citizens Gas & Coke Utility (Citizens) by extending the transportation term beyond the presently authorized expiration date, all as more fully set forth in the petition to amend which is on file with the the Commission which is on file with the Commission and open to public inspection.

Texas Gas requests an amended certificate to reflect an amended transportation agreement in which Texas Gas agrees to perform the transportation service for Citizens until the earlier of one year from the present expiration date of August 25, 1988, or the date on which Texas Gas accepts a blanket certificate under § 284.221 of the Commission's Regulations. It is asserted that in all other respects the existing transportation service would remain the same.

Comment date: July 21, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

16. Tennessee Gas Pipeline Company

[Docket No. CP88-491-000]

June 30, 1988.

Take notice that on June 23, 1988, Tennessee Gas Pipe Line Company (Tennessee), P.O. Box 2511, Houston, Texas 77251, filed in Docket No. CP88-491-000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP87-115-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes to transport natural gas for Tejes Power Corporation (Tejas). Tennessee explains that service commenced June 1, 1988 under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88-4247. Tennessee further explains that the peak day quantity would be 30,000 dekatherms, the average daily quantity would be 5,000 dekatherms, and that the annual quantity would be 1,825,000 dekatherms. Tennessee explains that it would receive natural gas for Tejas' account in Texas, Louisiana, Mississippi, Offshore Texas, and Offshore Louisiana. Tennessee states that the points of delivery are located in the state of New Jersey. Tennessee further explains that the ultimate delivery points of the gas are located in New Jersey, New York, Massachusetts, Connecticut, and Rhode Island.

Comment date: August 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to 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 allowd 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. 88-15143 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9714-001]

Franklin Springer; Surrender of Preliminary Permit

July 1, 1988.

Take notice that Mr. Franklin Springer, permittee for the Springer Hydro Development No. 2 located on the Pine Creek, in Chaffee County, Colorado, has requested that its preliminary permit be terminated. The preliminary permit was issued on December 4, 1986, and would have expired on November 30, 1989.

The permittee filed the request on May 9, 1988, and the preliminary permit for Project No. 9714 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15142 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

[Docket No. TM88-4-20-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

June 30, 1988.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on June 22, 1988, tendered for filing to its

FERC Gas Tariff, Second Revised Volume No. 1 the following tariff sheet:

Twentieth Revised Sheet No. 204

Algonquin states that Twentieth Revised Sheet No. 204 is being filed pursuant to section 7 of its Rate Schedule F-3, to reflect changes in the underlying rates by its pipeline supplier, National Fuel Gas Supply Corporation ("National"). Algonquin states that Twentieth Revised Sheet No. 204 is proposed to be effective July 1, 1988 to coincide with the proposed effective date of National's filing.

Algonquin notes that a copy of this filing is being served upon each affected party and interested state commission.

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, N.E., 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 July 8, 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. 88-15114 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-169-001]

CNG Transmission Corp.; Proposed Change in FERC Gas Tariff

June 30, 1988.

Take notice that CNG Transmission Corporation ("CNG"), on June 20, 1988, filed Substitute First Revised Sheet No. 125 of Volume No. 1 of its new FERC Gas Tariff, superseding First Revised Sheet No. 125. Pursuant to the Commission's Order issued on June 10, 1988, in Docket No. RP88-169-000, this former sheet was accepted by the Commission subject to CNG refiling the sheet removing a provision which the Commission rejected. The effective date of the submitted sheet is June 1, 1988.

CNG states that this filing removes a new tariff provision in its General Terms and Conditions which the Commission rejected. By this provision CNG had proposed to schedule two-thirds of its available "TSC capacity" to shippers that were qualified for "TSC service" on Texas Gas Transmission Corporation's system prior to April 11, 1988, and one-third to shippers that became qualified for such service on or after April 1, 1988.

Copies of the filing were served upon CNG's sales, storage and transportation customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All motions or protests should be filed on or before July 8, 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. 88-15113 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8662-005]

Nockamixon Hydro Associates; Dismissing Appeal

June 28, 1988.

On May 11, 1988, the Director, Division of Project Compliance and Administration (Director), issued an order approving and modifying in part a water quality monitoring plan for the Nockamixon Hydro Project No. 8662. Nockamixon Hydro Associates (Nockamixon), the licensee for the project, had filed the plan pursuant to Article 402 of the license for the project, which was issued on April 6, 1987.[1]

On June 10, 1988, the Commonwealth of Pennsylvania, Department of Environmental Resources (DER), an intervenor in the license proceeding and the owner of the dam where the project would be constructed, filed a timely appeal of the Director's order approving the water quality monitoring plan.

Appeals from staff actions are permitted only when filed by parties to the proceeding, pursuant to Rule 1902 of the Commission's Rules of Practice and Procedure.[2] In the case of orders pertaining to a project issued after the issuance of a license, the Commission will entertain interventions and appeals only where the order would entail material changes in the development plan of the project or in the terms and conditions of the license, or would adversely affect the interests of property holders in a way not contemplated by the license when issued, such that the Commission should have issued notice of the post-license proceeding and entertained intervention petitions therein.[3]

Since Nockamixon was specifically required to consult with DER in preparing the Article 402 plan, DER is allowed to intervene in and appeal the Director's order, since it concerned matters upon which DER was to be consulted.[4] However, DER has not filed a petition to intervene in the post-license proceeding. DER's status as an intervenor in the license proceeding does not carry over to post-license filings. DER's appeal, which was neither preceded nor accompanied by an intervention petition, cannot be entertained.[5] Accordingly, DER's appeal of the Director's June 10, 1988 order is dismissed.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15108 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-107-001]

Northern Natural Gas Co.; Compliance Filing

June 30, 1988.

Take notice that on June 24, 1988, Northern Natural Gas Company (Northern) filed Substitute Original Sheet No. 52f.12a to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective June 1, 1988.

Northern states that Substitute Original Sheet No. 52f.12a is filed in compliance with the Commission's order issued May 31, 1988 and that this sheet incorporates revisions to the FT-1 Rate Schedule.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Regulatory Commission, 825 North

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[1] 39 FERC ¶ 62.017 (1987).

[2] 18 CFR 385.1902 (1987).

[3] *See, e.g.*, Northwest Power Company, Inc., 43 FERC ¶ 61,091 (1988); Goose Creek Hydro Associates, 40 FERC ¶ 61,279 (1987); Kings River Conservation District, 36 FERC ¶ 61,365 (1986).

[4] *See* Pacific Gas and Electric Company, 40 FERC ¶ 61,035 (1987).

[5] *See* Delmar Wagner, 41 FERC ¶ 61,011 (1987); *see also* Kings River Conservation District, *Supra*, n.3.

Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1987)). All such motions or protests should be filed on or before July 8, 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. 88-15115 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-198-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

June 30, 1988.

Take notice that Transwestern Pipeline Company (Transwestern) on June 24, 1988 tendered for filing as part of its FERC Gas Tariff the following tariff sheets:

Second Revised Volume No. 1

45th Revised Sheet No. 5
Original Sheet No. 5C
32nd Revised Sheet No. 6
2nd Revised Sheet No. 8
1st Revised Sheet No. 9
Original Sheet No. 9A
2nd Revised Sheet No. 14
1st Revised Sheet No. 15
2nd Revised Sheet No. 37
Original Sheet No. 87
Original Sheet No. 88
Original Sheet No. 89
Original Sheet No. 90
Original Sheet No. 91
Original Sheet No. 92

Original Volume No. 2

1st Revised Sheet No. 78
1st Revised Sheet No. 93

Transwestern states that these tariff sheets would add section 25, Transition Cost Recovery Mechanism (TCR Mechanism), to the General Terms and Conditions of Transwestern's Volume No. 1 Tariff to permit Transwestern to implement one of the Commission's Order 500 recovery options for take-or-pay buyout and contract reformation costs (Transition Costs). Consistent with the Commission's Order 500 recovery options. Transwestern has elected to (1) absorb twenty-five percent (25%) of the total Transition Costs. (2) direct bill twenty-five percent (25%) of the total Transition Costs (TCR Fee), and (3) recover the remaining fifty percent (50%) through a Transition Cost Recovery Surcharge (TCR Surcharge). Transwestern proposes to recover from its two major customers, Southern California Gas Company and Williams Natural Gas Company, the TCR Fee through a direct bill due thirty days after the tariff sheets become effective. The TCR Surcharge will be recovered on total throughput, amortized over five years.

Transwestern proposes a settlement cap of $225 million which represents amounts already incurred or which Transwestern expects it will incur by September 30, 1989. None of the $225 million has been or will be paid to any of Transwestern's affiliates.

Transwestern states that under the proposal it would be required to make a True-up Filing by December 1, 1989 to reconcile actual payments with the $225 million amount contained in the filling.

Transwestern requests that the Federal Energy Regulatory Commission grant any and all waivers of its rules, regulations and orders as may be necessary, specifically § 154.63 of its Regulations, so as to permit the above listed tariff sheets to become effective July 24, 1988, which is 30 days after the filing date.

Copies of the filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 8, 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 inspections.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15116 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ88-2-35-000]

West Texas Gas, Inc.; Filing

June 30, 1988.

Take notice that on June 23, 1988, West Texas Gas, Inc. (WTG) filed Tenth Revised Sheet No. 3a to its FERC Gas Tariff, Original Volume No. 1, proposed to be effective July 1, 1988.

WTG requests a waiver of the 30-day filing requirement as provided in § 154.308(a) of the Commission's regulations due to the fact that for the past several weeks, WTG has been involved in negotiations regarding a financial restructuring and/or the sale of some or all of its jurisdictional facilities and unable to submit this filing in a timely manner. WTG states that in a few days it will file a diskette in the format specified in the Commission's April 29, 1988 order on WTG's request for waiver of the Order No. 483 computer filing requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1987)). All such motions or protests should be filed on or before July 8, 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. 88-15117 Filed 7-5-88; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; Eastern Carolina Electronics Limited Partnership et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
A. Eastern Carolina Electronics Limited Partnership, Rocky Mount, NC.	BPH-870429MG	88-299
B. North Star Broadcasting Corporation, Rocky Mount, NC.	BPH-870429MH	
C. Holy Hands FM Limited Partnership, Rocky Mount, NC.	BPH-870430MF	

Applicant, City and State	File No.	MM Docket No.
D. Rocky Mount Broadcasting Limited Partnership, Rocky Mount, NC.	BPH-870430MH	
E. WRMT, Incorporated, Rocky Mount, NC.	BPH-870430MK	
F. FM Rocky Mount Limited Partnership, Rocky Mount, NC.	BPH-870430OL	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Environmental, A
2. Air Hazard, A,C
3. Comparative, A,B,C,D,E,F
4. Ultimate, A,B,C,D,E,F

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-15174 Filed 7-5-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Franklin Broadcasting Co., Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
A. Franklin Broadcasting Louisburg, NC.	BPH-870702MB	88-297
B. Benjamin J. Terry, Louisburg, NC.	BPH-870709MF	
C. KB Broadcasting, A Limited Partnership, Louisburg, NC.	BPH-870710MC	
D. Louisburg FM Radio, Ltd., Louisburg, NC.	BPH-870710ND	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A,B,C,D
2. Ultimate, A,B,C,D

3. If there are any non-standarized issues in this proceeding, the full text of the issues and the applicants to which they apply are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-15175 Filed 7-5-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Proceeding; Lighthouse FM Limited Partnership, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
A. Lighthouse FM Limited Odessa, TX.	BPH-870330MD	88-298
B. Peter Winslow, Odessa, TX.	BPH-870330MO	
C. Michael Glitsch, Odessa, TX.	BPH-870331NO	
D. Echonet Corporation, Odessa, TX.	BPH-870331OH	
E. Mid-Cities Corp., Odessa, TX.	BPH-870415KP	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, it used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, B
2. Comparative, ALL
3. Ultimate, ALL

3. If there are any non-standardized issue in this proceeding, the full text of the issue and the applicant to which it applies is set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-15176 Filed 7-5-88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: The submission is summarized as follows:

Type of Review: Renewal without any change
Title: Annual Report of Trust Assets
Form Number: FFIEC 001
OMB Number: 3064–0024
Expiration Date of Current OMB Clearance: 9/30/88
Frequency of Response: Annually
Respondents: All insured state nonmember commercial and savings banks operating trust departments or granted consent to exercise trust powers
Number of Respondents: 2,616
Number of Responses Per Respondent: 1
Total Annual Responses: 1
Average Number of Hours per Response: 3.39
Total Annual Burden Hours: 8,867
OMB Reviewer: Robert Neal, (202) 395–7340, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503
FDIC Contact: John Keiper, (202) 898–3810, Assistant Executive Secretary, Room 6108, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429
Comments: Comments on this collection of information are welcome and should be submitted on or before September 6, 1988.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to the OMB reviewer listed. The FDIC would be interested in receiving a copy of the comments.

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB approval to continue the Annual Report of Trust Assets without any change in the substance or the method of collection. The purpose of the Annual Report of Trust Assets is to provide the FDIC with details concerning the scope and amount of trust activities of the financial institutions it supervises. Details concerning collective investment funds which may be operated within trust departments and trust companies are also included in the scope of the report. The information is used in the supervision and examination of trust institutions by the FDIC.

Dated: June 28, 1988.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 88–15069 Filed 7–5–88; 8:45 am]
BILLING CODE 6714–01–M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: The submission is summarized as follows:
Type of Review: Renewal without any change
Title: Application for Consent to Exercise Trust Powers
Form Number: FDIC 6200/09
OMB Number: 3064–0025
Expiration Date of Current OMB Clearance: 9/30/88
Frequency of Response: On occasion
Respondents: Insured state nonmember banks applying for FDIC's consent to exercise trust powers
Number of Respondents: 50
Number of Responses per Respondent: 1
Total Annual Responses: 50
Average Number of Hours per Response: 15.7
Total Annual Burden Hours: 785
OMB Reviewer: Robert Neal, (202) 395–7340, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503
FDIC Contact: John Keiper, (202) 898–3810, Assistant Executive Secretary, Room 6108, Federal Deposit Insurance Corporation, 550—17th Street NW., Washington, DC 20429
Comments: Comments on this collection of information are welcome and should be submitted on or before September 6, 1988.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to the OMB reviewer listed. The FDIC would be interested in receiving a copy of the comments.

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB approval to continue using form FDIC 6200/09 as an application form for banks to obtain FDIC's consent to exercise trust powers. FDIC's regulation 12 CFR 333.2 prohibits any insured state nonmember bank from changing the general character of the business exercised by it without the prior written consent of the FDIC. The application form, FDIC 6200/09, enables banks to request such consent. Each application received is evaluated by the FDIC to verify the qualifications of bank management to administer a trust department to ensure that the bank's financial condition will not be jeopardized as a result of trust operations.

Dated: June 29, 1988.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 88–15070 Filed 7–5–88; 8:45 am]
BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–010718–003.
Title: Virginia International Terminals, Inc. Terminal Agreement.
Parties:
Virginia International Terminals, Inc.
Evergreen Marine Corporation (Taiwan), Ltd.

Synopsis: The agreement adds Costa Container Lines S.P.A. (CCL) as a party to the basic terminal use agreement for so long as CCL remains a party to the Evergreen and CCL space charter and sailing Agreement No. 232–011184.

By order of the Federal Maritime Commission.
Joseph C. Polking,
Secretary.

Dated: June 30, 1988.

[FR Doc. 88–15144 Filed 7–5–88; 8:45 am]
BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the

Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 day after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212–010027–020.
Title: Brazil/U.S. Atlantic Coast Agreement.
Parties:

Companhia De Navegacao Lloyd Brasileiro
Companhia De Navegacao Maritima Netumar
American Transport Lines, Inc.
A/S Ivarans Rederi
Empresa Lineas Maritimas Argentinas S/A
A. Bottacchi S.A. De Navegacion C.F.I.I.
Van Nievelt, Goudriaan and Co., B.V.

Synopsis: The proposed amendment would provide for a special deduction from pool revenue equal to 50 percent from gross pool income on shipments of Wheels for Automobiles.

Agreement No.: 202–010637–031.
Title: North Europe-U.S. Atlantic Conference.
Parties:

Atlantic Container Line B.V.
Hapag-Lloyd AG
Sea-Land Service, Inc.
Nedlloyd Lijnen, B.V.
Gulf Container Line (GCL), B.V.
P&O Containers (TFL) Limited
Compagnie Generale Maritime (CGM)

Synopsis: The proposed amendment would clarify the description of the neutral body authority of the members and provide for cooperation between them and other carriers to discuss procedues and administrative matters concerning self-policing.

Agreement No.: 203–010905–001.
Title: Far East-U.S. Discussion Agreement.
Parties:

Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha
Showa Line, Ltd.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment would delete Showa Line, Ltd. as a party to the agreement. The parties have requested a shortened review period.

Agreement No.: 202–010987–007.
Title: United States/Central America Liner Association.
Parties:

Crowley Caribbean Transport, Inc.
Sea-Land Service, Inc.
Seaboard Marine Ltd.
Crowley Trailer Marine Transport, Corp.

Synopsis: The proposed amendment would conform the agreement to the Commission's requirements concerning Docket No. 86–16, service contract provisions.

By Order of the Federal Maritime Commission.

Joseph C. Polking,
Secretary.

Dated: June 30, 1988.

[FR Doc. 88–15145 Filed 7–5–88; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Commerce Bancorp, Inc., et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 27, 1988.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Commerce Bancorp, Inc.*, Cherry Hill, New Jersey; to acquire 17.5 percent of the voting shares of Commerce Bank/Harrisburg, Camp Hill, Pennsylvania.

B. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Fifth Third Bancorp*, Cincinnati, Ohio; to merge with Decatur Bancshares, Inc., Greensburg, Indiana, and thereby indirectly acquire Decatur County Bank, Greensburg, Indiana. Comments on this application must be received by July 22, 1988.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Provident Bankshares Corporation*, Baltimore, Maryland; to acquire 100 percent of the voting shares of First Security Bank of Maryland, Baltimore, Maryland, in organization, a *de novo* bank.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Bancorporation of Holdenville, Inc.*, Holdenville, Oklahoma; to acquire 100 percent of the voting shares of Alliance Bank, N.A., Oklahoma City, Oklahoma, which engages in the sale of credit life and disability insurance.

Board of Governors of the Federal Reserve System, June 29, 1988.

William W. Wiles,
Secretary of the Board.

[FR Doc. 88–15065 Filed 7–5–88; 8:45 am]
BILLING CODE 6210–01–M

Change in Bank Control; Acquisitions of Shares of Banks or Bank Holding Companies; Arnold Skeie et al.

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 July 21, 1988.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Arnold Skeie*, Burnsville, Minnesota; to acquire 92.11 percent of the voting shares of Oppegard Agency, Inc., Dilworth, Minnesota, and thereby indirectly acquire Twin Valley State Bank, Twin Valley, Minnesota, and American State Bank, Erskine, Minnesota.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Henry Croak*, Midwest City, Oklahoma; to acquire an additional 2.01 percent of the voting shares of the First Midwest Bancorp, Inc., Midwest City, Oklahoma, and The First National Bank of Midwest City, Midwest City, Oklahoma.

2. *Ed Duggan*, Windsor, Colorado; to acquire an additional 10.0 percent of the voting shares of Windsor Bancorporation, Inc., Windsor, Colorado, and thereby indirectly acquire Bank of Windsor, Windsor, Colorado.

Board of Governors of the Federal Reserve System, June 29, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-15067 Filed 7-5-88; 8:45 am]

BILLING CODE 6210-01-M

Traders Bankshares, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of 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 July 22, 1988.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Traders Bankshares, Inc.*, Spencer, West Virginia, and Commercial BancShares, Inc., Parkersburg, West Virginia; to engage *de novo* through its subsidiary, MOVE Capital, Inc., Charleston, West Virginia, in making and servicing commercial loans and other extensions of credit and making equity investments of 5% or less pursuant to § 225.25(b)(1)(iv) of the Board's Regulation Y. These activities will be conducted in the State of West Virginia.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Wisconsin Corporation*, Milwaukee, Wisconsin; to engage *de novo* through its subsidiary, Illinois Trust Company, in trust company functions pursuant to § 225.25(b)(3) of the Board's Regulation Y.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Santa Barbara Bancorp*, Santa Barbara, California; to engage *de novo* through its subsidiary, SBBT Service Corporation, Santa Barbara, California, in providing courier services pursuant to § 225.25(b)(10); and providing management consulting advice to unaffiliated depository institutions pursuant to § 225.25(b)(11) of the Board's Regulation Y. These activities will be conducted throughout the counties of San Luis Obispo, Santa Barbara, and Ventura, California.

Board of Governors of the Federal Reserve System, June 29, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-15066 Filed 7-5-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

Statement of Organization, Functions and Delegations of Authority; Public Health Service

Part H, Public Health Service (PHS), Chapter H, of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 53 FR 11348-11349, April 6, 1988), is further amended to restate Section H-30, Public Health Service—Order of Succession. This revision updates successors to head PHS in the absence of the Assistant Secretary for Health.

Public Health Service

Under Section H-30. Public Health Service—Order of Succession, delete the statement in its entirety, and substitute the following:

During the absence or disability of the Assistant Secretary for Health, or if that position becomes vacant, the Deputy Assistant Secretary for Health shall act as Assistant Secretary for Health. In the event of the absence or disability of both the Assistant Secretary for Health and the Deputy Assistant Secretary for Health, the Deputy Assistant Secretary for Health Planning and Evaluation shall act as Assistant Secretary for Health. In the event of the absence or disability of the Assistant Secretary for Health, the Deputy Assistant Secretary for Health, and the Deputy Assistant Secretary for Health Planning and Evaluation, the Senior Advisor for Environmental Affairs shall act as Assistant Secretary for Health. However, during a planned absence the Assistant Secretary for Health may choose to designate a different order.

Should both the positions of Assistant Secretary for Health and Deputy Assistant Secretary for Health be vacant, an official designated by the Secretary of Health and Human Services shall serve as acting head of the Public Health Service.

The above order of succession also applies upon the activation of the

Emergency Health and Human Services Plan upon the order of the Secretary.

Date: June 27, 1988.

Otis R. Bowen,

Secretary.

[FR Doc. 88–15103 Filed 7–5–88; 8:45 am]

BILLING CODE 4160–17–M

Health Resources and Services Administration

Program Announcement, Funding Preferences, Proposed Funding Priorities, and Grant Orientation Conferences for the Health Careers Opportunity Program

The Health Resources and Services Administration announces that applications for Fiscal Year 1989 Health Careers Opportunity Program (HCOP) grants are now being accepted under the authority of section 787 of the Public Health Service Act, as amended by Pub. L. 99–129 and invites comments on the proposed funding priorities stated below.

Section 787 authorizes the Secretary to make grants to schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic and podiatry, public and nonprofit private schools which offer graduate programs in clinical psychology, and other public or private nonprofit health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools. The assistance authorized by this section includes: recruitment, preliminary education, retention in health and allied health professions schools, counseling and advice on financial aid.

Legislative authorization for this program expires September 30, 1988. For FY 1989 the Administration is proposing to consolidate the various health professions categorical programs into a single, flexible grant authority. This announcement is being made in the event that the Health Careers Opportunity Program is reauthorized and funds are made available in FY 1989. Publication of this notice is a contingency measure that will assure that grants can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year.

In addition, programmatic changes may result from currently pending legislative action. Should such changes be necessary, all applicants will be notified at a later date.

The statute requires that no less than 80 percent of the funds appropriated in any fiscal year must be obligated for grants or contracts to institutions of higher education. Also, not more than five percent of such funds may be obligated for grants and contracts having the primary purpose of informing individuals about the existence and general nature of health careers.

To receive support, applicants must meet the requirements of the program regulations which are located at 42 CFR Part 57, Subpart S.

Requests for grant application materials and questions regarding grants policy should be directed to: Grants Management Officer (D18), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, general instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

The application deadline date is November 4, 1988. Applications shall be considered as meeting the deadline if they are either:

(1) *Received* on or before the deadline date, or

(2) *Postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications received after the deadline will be returned to the applicant.

This program is listed at 13.822 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR Part 100).

Funding Preferences

The following funding preferences will govern the distribution of grant awards to approved HCOP grant applicants for Fiscal Year 1989. These preferences were published in a **Federal Register** notice dated September 12, 1983, (48 FR 40958).

An applicant may request consideration in one of the following five funding preferences:

(1) Health professions school(s) which have Educational Assistance Agreement(s) (EAA) with no more than five undergraduate institutions that separately or collectively satisfy the definition of a feeder institution and who are requesting HCOP support only for:

a. The feeder institution(s) or equivalent to provide individuals from disadvantaged backgrounds with preliminary education; and

b. Either the health professions school or the feeder institution to facilitate the entry of individuals from disadvantaged backgrounds into health professions schools; and

c. The health professions school(s) to provide individuals from disadvantaged backgrounds who are enrolled in their institution(s) counseling or other retention services.

(2) A feeder institution requesting HCOP support only for:

a. Providing individuals from disadvantaged backgrounds with preliminary education; and

b. Facilitating the entry of individuals from disadvantaged backgrounds into health professions schools.

(3) A health professions school requesting HCOP support only for:

a. Facilitating the entry of individuals from disadvantaged backgrounds into its health professions school; and

b. Providing the students who are individuals from disadvantaged backgrounds with counseling or other retention services.

(4) A joint application from two to five institutions of higher education, which, as a group: (1) Has a student body more than 20 percent of which are individuals from disadvantaged backgrounds; (2) has 20 or more graduates annually (as averaged over the last three years) who are disadvantaged individuals and who are accepted into health professions schools; and (3) is requesting HCOP support only for:

a. Providing individuals from disadvantaged backgrounds with preliminary education; and

b. Facilitating the entry of individuals from disadvantaged backgrounds into health professions schools.

(5) A training center for allied health professions requesting HCOP support only for:

a. Facilitating the entry of individuals from disadvantaged backgrounds into allied health training centers; and

b. Providing its students who are individuals from disadvantaged backgrounds with counseling or other retention services.

Greatest weight will be given to applicants in funding preference

Number 1 decreasing, respectively, to funding preference Number 5.

The five preferences do not preclude funding of other eligible approved applications. Accordingly, entities which do not qualify for the preferences are encouraged to submit applications.

The applicant must indicate on the upper right-hand corner of page one of the application the funding preference in which the applicant wishes consideration. However, the final determination of the category of funding preference will be based on a staff assessment of the contents of the proposal. An applicant may apply for consideration under only one preference. A feeder institution which is identified in an EAA may not apply as a primary grantee to support the same type of HCOP activities. Consideration will be given to assure that funded projects represent a reasonable proportion of the health professions specified in the legislation. However, full consideration will also be given to ensure that final funding decisions include appropriate support of proposals and students representative of the targeted populations served by HCOP.

Proposed Funding Priorities

In addition, a funding priority is being proposed for HCOP applications from health and allied health professions schools that have a disadvantaged student enrollment of more than 70 percent or can document, over the past three year period, an increase in the percentage of first year enrollees and graduates who are disadvantaged. A funding priority is also being proposed for undergraduate institutions that can document over the past three years an increase in the number of their disadvantaged students enrolled in health or allied health professions schools.

Since the inception of the Health Careers Opportunity Program and its predecessor the Special Health Career Opportunity Grants in 1972 individual institutions have received support for as few as three to as many as sixteen years. Requests for continued support of HCOP programs have always called for the demonstration of specific and tangible positive results on the part of the applicant. Ultimate performance indicators are the number of disadvantaged individuals who are admitted, enrolled and graduated from a health or allied health professions school as a consequence of HCOP initiatives. Under the provisions of this priority applicants demonstrating such positive results would receive improved funding consideration relative to the extent of increase in percent or numbers of disadvantaged.

Interested persons are invited to comment on the proposed funding priorities. Normally, the comment period would be 60 days. However, due to the need to implement any changes for the Fiscal Year 1989 award cycle, this comment period has been reduced to 30 days. All comments received on or before August 5, 1988, will be considered before the final funding priorities are established. No funds will be allocated or final selections made until a final notice is published stating whether the final funding priorities will be applied.

Written comments should be addressed to: Director, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A–09, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Disadvantaged Assistance, Bureau of Health Professions, at the above address, weekdays (Federal Holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Definitions

As used in this notice:

"Educational Assistance Agreement (EAA)" means a formal agreement between the grantee and another school or entity to assure continuity of training through health or allied health professions schools. This agreement must provide for financial or other support (excluding direct student aid) for this purpose and support may include funds from the grant awarded under this program, also joint use of facilities, staff, and faculties. An EAA must:

a. Contain the names of the participating institutions;

b. Identify the prime grantee, subcontractors and other participating institutions;

c. State the HCOP purposes addressed by each participating institutions;

d. Identify the specific activities to be performed by the grantee, including a description of program activities and administrative responsibilities;

e. Identify the specific activities to be performed by all collaborating institutions, including a description of program activities;

f. Contain a detailed description of proposed expenditures for each participating institution;

g. Contain a description of how facilities, faculty, and staff will be shared, including times, places, and dates;

h. State the duration of the EAA;

i. Contain the terms for amending the EAA; and

j. Be signed by the President, Chancellor, Dean, or equivalent official from all participating institutions and health or educational entities.

"Feeder Institution" means an institution of higher education meeting the requirements of section 435 of the Higher Education Act, as amended, Pub. L. 89–239 (20 U.S.C. 1085(b)), which:

a. Has a student body more than 20 percent of which are individuals from disadvantaged backgrounds; and

b. Had ten or more graduates annually (as averaged over the last three years) who are disadvantaged and who are accepted into health professions schools.

"Health Professions Schools" means schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, podiatry, public health, chiropractic or graduate programs in health administration, as defined in section 701(4) of the Public Health Service Act.

"Individual from a Disadvantaged Background" means an individual who (a) comes from an environment that has inhibited the individual from obtaining the knowledge, skills and abilities required to enroll in and graduate from the health professions school or from a program providing education or training in an allied health profession or (b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index and adjusted by the Secretary for use in all health professions programs, 42 CFR 57.1804(b)(2).

The following income figures determine what constitutes a low income family for purposes of these Health Careers Opportunity Program grants for Fiscal Year 1989:

Size of parents' family [1]	Income level [2]
1	$7,600
2	9,900
3	11,800
4	15,100
5	17,800
6 or more	20,000

[1] Includes only dependents listed on Federal income tax forms.

[2] Adjusted gross income for calendar year 198; rounded to $100.

"Training Center for Allied Health Professions" means a junior college, or college, or university as defined in

section 795 of the Public Health Service Act, which:

(a) Provides educational programs leading to an associate, baccalaureate, or higher degree needed to practice as one of the following:

Doctoral Degree:
Clinical Psychologist
Master's Degree:
Speech Pathologist/Audiologist
Bachelor's Degree:
Dental Hygienist
Dietitian (Coordinated undergraduate program)
Community Health Educator
Health Services Administrator
Medical Records Administrator
Medical Technologist
Occupational Therapist
Physical Therapist
Primary Care Physician Assistant
Sanitarian (Environmental Health)
Associate Degree:
Clinical Dietetic Technician
Cytotechnologist
Dental Assistant
Dental Hygienist
Dental Laboratory Technician
Medical Assistant
Medical Laboratory Technician
Medical Records Technician
Occupational Therapy Assistant
Ophthalmic Medical Assistant
Optometric Technician
Physcial Therapy Assistant
Radiologic Technologist
Respiratory Therapist
Sanitarian Technician

(b) Provides training for no fewer than 20 persons in the substantive health portion, including clinical experience as required for employment, in three or more of the disciplines listed in paragraph (a) of this definition and has a minimum of six full-time students in that portion of each curriculum by October 15 of the fiscal year of application.

(c) Has a teaching hospital as part of the grantee institution or is affiliated with a teaching hospital by means of a formal written agreement. The term "teaching hospital" includes other settings which provide clinical or other health services if they fulfill the requirement for clinical experience specified in an allied health curriculum.

Grant Orientation Conferences

Grant applications and program information for the Health Careers Opportunity Program will also be provided through three program technical assistance conferences. The conferences scheduled during September 1988 are for the benefit of potential applicants and current grantees.

The three conferences will be held as follows:

September 15–16, 1988
Richmond, Virginia—The Ramada Renaissance Hotel, 555 E. Canal Street, Richmond, Virginia 23219, (804) 788–0900, 1–(800) 2–RAMADA
September 19–20, 1988
Chicago, Illinois—McCormick Center Hotel, Lake Shore Drive at 23rd Street, Chicago, Illinois 60616, (312) 791–1900, 1–(800) 621–6909
September 22–23, 1988
Seattle, Washington—Edgewater Inn, 2411 Alaskan Way—Pier #67, Seattle, Washington 98121, (206) 728–7000, 1–(800) 624–0670.

Expenses incurred by the attendees will not be supported by the Federal Government.

Agenda items will include: Status of the legislation; application requirements; and grants management information. There will be small work groups to critique specific points in development of applications including evaluation considerations which arise in the review process. Significant focus of the conferences will be directed toward: program activities and reporting requirements of current grantees; the relative merit of strategies employed to facilitate entry of disadvantaged students into health professions schools; and both current and projected academic issues affecting disadvantaged students in health professions schools.

Participation in the technical assistance meetings does not insure approval and funding of prospective applications.

To obtain specific information regarding the conferences and programmatic aspects of this grant program, direct inquiries to: Mr. Darl W. Stephens, Chief, Program Coordination Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, HRSA, Parklawn Building, Room 8–20, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–4493.

Dated: June 16, 1988.

John H. Kelso,

Acting Administrator.

[FR Doc. 88–15122 Filed 7–5–88; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Cooperative Agreement With the American College of Preventive Medicine of the Science and Practice of Preventive Medicine; Availability of Funds for Fiscal Year 1988

Introduction

The Office of Disease Prevention and Health Promotion (ODPHP), Office of the Assistant Secretary for Health, announces the availability of funds in Fiscal Year 1988 to extend a cooperative agreement with the American College of Preventive Medicine for the purpose of responding to emerging issues in the science and practice of preventive medicine. Under this cooperative agreement, the American College of Preventive Medicine proposes to use its prevention data base, its network of committees and task forces, its position in the prevention and primary care community, and staff with professional preparation and experience in the field in a partnership with the Office of Disease Prevention and Health Promotion in support of their mutual mission to enhance preventive medicine. The College proposes to work with the Office on four principal areas: Organization and support for the U.S. Preventive Services Coordinating Committee; provision of professional information and education; initiation of research reviews and analyses in support of the implementation of clinical preventive services; and technical services to persons engaged in clinical preventive services to expand and improve the influence of preventive medicine and health promotion policies and programs. The Office will participate in the activities of the U.S. Preventive Services Coordinating Committee (with the Assistant Secretary serving as its chair); make available to the College the background information used to develop the guide to clinical preventive services for use in the professional information effort; coordinate with the College to ensure appropriate congruence of its research reviews and analyses with research efforts occurring under Federal sponsorship; and advise the College about the focus and extent of technical services to the field of preventive medicine.

Authority

This cooperative agreement is authorized under section 1701(a)(10)(B) of the Public Health Service Act, as amended. The Catalog of Domestic Assistance Number is 13.990.

Background

Since 1985, the Office of Disease Prevention and Health Promotion has supported the development of age- and sex-specific recommendations for delivery of clinical preventive services in primary care settings. This effort has been carried out primarily through the work of the U.S. Preventive Services Task Force. Its work was concluded in 1988. During the last year of this effort, the American College of Preventive Medicine participated in the effort through a cooperative agreement with the Office and a grant from the Kellogg Foundation. In mid-1988, the next phase of this long-term effort is commencing, with the organization of a U.S. Preventive Services Coordinating Committee, composed of representatives of national professional organizations whose missions relate to the provision of clinical preventive services in primary care settings. The American College of Preventive Medicine has proposed to work with the Office in support of this next phase.

The American College of Preventive Medicine was founded in 1954 to be a scientific society of physicians engaged in the practice, teaching, and research of preventive medicine. It is composed of 2,400 physicians, primarily Board-certified in one or more of the four preventive medicine disciplines: public health, occupational medicine, general preventive medicine, or aerospace medicine. Many members hold board certifications in other primary care specialties as well. Because the College has served already as the executive secretariat for the final work of the last phase of this effort to improve clinical preventive services and becasue the College is the principal professional organization for the field of preventive medicine, it is appropriate that it continue in this key role.

Availability of Funds

Approximately $175,000 will be available in Fiscal Year 1988 to fund this cooperative agreement. It is expected that the cooperative agreement will begin on or about July 1, 1988, and depending upon the availability of funds, will be funded in 12-month budget periods within a 24-month project period. A continuation award will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. The funding level may change in the second year.

Executive Order 12372

This cooperative agreement is not covered under the requirements of Executive Order 12372.

Information

Information may be obtained from James A. Harrell, Deputy Director, Office of Disease Prevention and Health Promotion, Public Health Service, Department of Health and Human Services, Washington, DC 20201, telephone (202) 245–7611.

Dated: June 20, 1988.

J.M. McGinnis,

Deputy Assistant Secretary for Health, Director, Office of Disease Prevention and Health Promotion.

[FR Doc. 88–15153 Filed 7–5–88; 8:45 am]

BILLING CODE 4160–18–M

National Commission on Orphan Diseases; Public Meeting

AGENCY: Office of the Assistant Secretary for Health, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health are announcing a meeting of the National Commission on Orphan Diseases scheduled on July 21 and 22, 1988.

DATE: Date, time and place: Open Public Meeting, July 21, 1988 9:00 a.m.–4:00 p.m. and July 22, 1988, 8:30 a.m.–5:00 p.m.; Open Public Session, July 21, 1988, 4:00 p.m.–5:00 p.m.; Wilson Hall 3rd floor, Bldg 1, Center Drive, NIH Campus, Bethesda, MD 20892. The entire meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Written requests to participate in the Open Public Session should be sent to: Mary C. Custer, Ph.D., Executive Secretary, National Commission on Orphan Diseases, Office of the Assistant Secretary for Health, 5600 Fishers Lane, Room 18–38, Rockville, MD 20857, 301–443–6156.

Agenda: Open Public Session

Interested persons may present data, information or views orally or in writing, on issues pending before the Commission or on any of the duties and responsibilities of the Commission on July 21 from 4 p.m. to 5 p.m. Those desiring to make oral presentations should notify the contact person before July 14, 1988 and submit a brief statement of the information they wish to present to the Commission. The request should include the names and addresses of proposed participants and an indication of the approximate time required to make their comments. Any person attending the open public session who does not request prior approval to speak may make an oral presentation at the conclusion of the session, if time permits, at the chairperson's discretion.

Agenda: Open Commission Meeting

The Commission will review the draft summary of the four public hearings held by the Commission between July, 1987 and February, 1988. The Commission will discuss the reports on product and professional liability issues and the peer review process. Results of the surveys of rare disease research activities of Federal agencies, foiundations and voluntary organizations will also be discussed. In addition, the Commission will review preliminary results of the telephone surveys of physicians, biomedical researchers, and patients with rare diseases.

SUPPLEMENTARY INFORMATION: The Commission meeting will be conducted in accordance with the agenda published in this **Federal Register** notice. Any changes in the agenda will be announced at the beginning of the meeting.

Persons interested in specific agenda items to be discussed in the open meeting may ascertain from the contact person the approximate time of discussion.

A list of Commission members and the charter of the Commission will be available at the meeting. Interested persons who are unable to attend the meeting may request this information from the contact person. In addition, summary minutes of the meeting will be available upon request from the contact person.

This notice is issued under 10(a)(1) and (2) of the Federal Advisory Committee Act, Pub. L. 92–463 (5 U.S.C. Appendix I).

Dated: June 27, 1988.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 88–15104 Filed 7–5–88; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. I-88-148]

Intended Environmental Impact Statement; the Stonebridge Ranch Project, McKinney, TX

The Department of Housing and Urban Development, Forth Worth, Texas Regional Office, intends to prepare an Environmental Impact Statement (EIS) for The Stonebridge Ranch Project located in McKinney, Texas as described in the appendix to this Notice. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, government agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, major issues and data with the EIS should consider, and recommended mitigating measures and alternatives associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

This Notice shall be effective for one year. If one year after the publication of the Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, DC, date June 28, 1988.

Richard H. Broun,

Director, Office of Environment and Energy.

Appendix—EIS on Stonebridge Ranch Project, City of McKinney, Texas

The Department of Housing and Urban Development, Fort Worth, Texas Regional Office, intends to prepare an Environmental Impact Statement (EIS) on the subject project in the City of McKinney, Texas. The Department hereby solicits comments and information for consideration in this EIS.

Description

The Stonebridge Ranch Project is located approximately seven miles west of the Central Business District of McKinney, Texas. The development is south of U.S. Highway 380, North of State Highway 121, East of County Road 71, and West of County Road 156, McKinney, Collin County Texas. The total development consists of 6,230 acres of land. When fully developed, in about twenty years, approximately 2,500 acres will be devoted to single family housing, 399 acres to multi-family housing, 168 acres to retail and commercial uses, 451 acres to office use, 1,308 acres to light manufacturing, 160 acres to school sites, and 852 acres to parks, open space and golf courses. It is estimated that ultimate development will provide 27,539 dwelling units. The Gilbralter Savings Association c/o Republic Property Group, Dallas, Texas has filed an application for mortgage insurance with the Dallas HUD Office.

Need: The total project exceeds HUD's 2500 unit EIS threshold (24 CFR 50.42(b)(3)). The application is on file requesting Mortgage Insurance under Title II, section 203(b) of the Housing and Community Development Act of 1974 (Pub. L. 93-383).

Alternatives: At this point HUD perceives the relevant alternatives as: (1) Acceptance of the project as submitted for mortgage insurance; (2) acceptance of the project with modification and mitigation measures; and (3) rejection of the project for mortgage insurance.

Scoping: This notice is part of the EIS scoping process and, as such, will be used by HUD to determine environmental issues, define the study boundary, identify data which the EIS should address, and identify cooperating agencies. No formal scoping meeting is anticipated.

Comments: To assist in the preparation of the Environmental Impact Statement, Federal, State, and local agencies, and other interested persons and organizations are invited to participate in the scoping process by submitting comments on the project and its potential impacts. All comments received within 30 days of this invitation will be considered in the Environmental Impact Statement. Please submit all comments to: I. J. Ramsbottom, Regional Environmental Office, U.S. Department of Housing and Urban Development, P.O. Box 2905, Forth Worth, Texas 76113. The commercial telephone number of this office is 817-885-5482. The FTS number is 728-5482. These are not toll free numbers.

[FR Doc. 88-15149 Filed 7-5-88; 8:45 am]

BILLING CODE 4210-29-M

Office of the Regional Administrator

[Docket No. D-88-880]

New York Regional Office; Designation

AGENCY: Department of Housing & Urban Development.

ACTION: Designation of order of succession.

SUMMARY: The Acting Regional Administrator is designating officials who may serve as Acting Regional Administrator/Regional Housing Commissioner during the absence, disability, or vacancy in the position of Regional Administrator/Regional Housing Commissioner.

EFFECTIVE DATE: This designation is effective June 20, 1988.

FOR FURTHER INFORMATION CONTACT: Adele S. Germain, Director, Administrative and Management Services Division, Office of Administration, New York Regional Office, Department of Housing and Urban Development, 26 Federal Plaza, New York, NY 10278, telephone (212) 264-2761. (This is not a toll-free number.)

Designation

Each of the officials appointed to or designated as Acting in the following positions is designated to serve as Acting Regional Administrator/Regional Housing Commissioner during the absence, disability, or vacancy in the position of the Regional Administrator/Regional Housing Commissioner, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator/Regional Housing Commissioner: Provided, that no official is authorized to serve as Acting Regional Administrator/Regional Housing Commissioner unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Regional Administrator
2. Director, Office of Fair Housing and Equal Opportunity
3. Director, Office of Community Planning and Development
4. Director, Office of Housing
5. Executive Assistant to the Regional Administrator
6. Director, Office of Public Housing
7. Director, Office of Administration
8. Regional Counsel
9. Director, Office of Operational Support.

This designation supersedes the designation effective July 31, 1987.

Authority: Delegation of Authority, 27 FR 4319 (1962); section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); and Interim Order II, 31 FR 815 (1966).

Dated: June 20, 1988.

Geraldine McGann,

Acting Regional Administrator, Regional Housing Commissioner, Region II.

[FR Doc. 88-15150 Filed 7-5-88; 8:45 am]

BILLING CODE 4201-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review 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 phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 343-7340.

Titles: Subchapter H—Land and Water—Colorado River Irrigation Project, Arizona, 25 CFR Part 175; Flathead Indian Irrigation and Power Project, Montana, 25 CFR 176; San Carlos Indian Irrigation Project, Arizona, 25 CFR 177.

Abstract: These irrigation and power projects provide electric power service. Projects need names and addesses of the electric power consumers, namely, households, commercial and industrial businesses, farming enterprise, and municipalities in order to identify and assess the particular customer the monthly charges for receiving electric power.

Bureau form number: None.

Frequency: On occasion.

Description of Respondents: Individuals, households, businesses, farms, and municipalities buying electric power from Indian irrigation projects.

Annual Responses: 4,945.0.

Burden Hours: 2,508.0.

Bureau clearance office: Cathie Martin, (202) 343-3577.

Donald F. Asbra,

Acting Deputy to the Assistant Secretary, Indian Affairs (Operations).

[FR Doc. 88-15084 Filed 7-5-88; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AK-4213-15; AA-61369]

Alaska Native Claims Selection; Cook Inlet Region, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(e), will be issued to Cook Inlet Region, Inc. for approximately 44 acres. The lands involved are in the vicinity of Anchorage, Alaska, within T. 12 N., R. 4 W., Seward Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the ANCHORAGE DAILY NEWS. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until August 5, 1988, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Ramona Chinn,

Chief, Branch of Cook Inlet and Ahtna Adjudication.

[FR Doc. 88-15085 Filed 7-5-88; 8:45 am]

BILLING CODE 4310-JA-M

[AZ-020-08-4321-01; A 23376]

Realty Action; Exchange of Public Lands; Apache County, AZ

Public lands managed by the Phoenix District have been determined to be suitable for disposal by exchange with the state of Arizona as authorized by section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

Public land within the following townships and sections will be exchanged for state land on an equal value basis as determined by appraisals.

Gila and Salt River Meridian, Arizona

Apache County

T. 12 N., R. 24 E.,
Secs. 24, 28.
T. 13 N., R. 24 E.,
Sec. 26.
T. 19 N., R. 24 E.,
Secs. 24, 26.
T. 11 N., R. 25 E.,
Sec. 12.
T. 13 N., R. 25 E.,
Secs. 4, 6, 18.
T. 15 N., R. 25 E.,
Sec. 32.
T. 18 N., R. 25 E.,
Sec. 6.
T. 19 N., R. 25 E.,
Secs. 2, 5, 6, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21, 29.
T. 11 N., R. 26 E.,
Secs. 4, 8, 10, 12, 14, 18, 20, 22, 24, 25.
T. 14 N., R. 26 E.,
Secs. 6, 12, 22, 24.
T. 15 N., R. 26 E.,
Secs. 4, 6, 8, 10, 12, 14, 18, 20, 24, 30.
T. 16 N., R. 26 E.,
Secs. 4, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 34.
T. 11 N., R. 27 E.,
Secs. 4, 24, 26, 27, 29, 30, 33, 34, 35.
T. 12 N., R. 27 E.,
Sec. 28.
T. 14 N., R. 27 E.,
Secs. 4, 6, 8, 10, 18, 20, 22, 34.
T. 15 N., R. 27 E.,
Secs. 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 34.
T. 16 N., R. 27 E.,
Sec. 20.
T. 17 N., R. 27 E.,
Sec. 6.
T. 18 N., R. 27 E.,
Secs. 22, 24, 26, 28.
T. 11 N., R. 28 E.,
Secs. 18, 19, 20, 28.
T. 12 N., R. 28 E.,
Secs. 10, 12, 14, 30.
T. 13 N., R. 28 E.,
Secs. 10, 12, 14, 24.
T. 14 N., R. 28 E.,
Sec. 4.
T. 15 N., R. 28 E.,
Secs. 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 28, 30.
T. 16 N., R. 28 E.,
Secs. 4, 6, 8, 10, 14, 18, 20, 22, 24, 26, 28, 30, 34.
T. 17 N., R. 28 E.,
Secs. 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 34.
T. 10 N., R. 29 E.,
Sec. 18.
T. 12 N., R. 29 E.,
Secs. 12, 18, 20, 21, 27, 28, 32.
T. 13 N., R. 29 E.,
Sec. 28.
T. 14, N., R. 29 E.,

Secs. 4, 8, 10, 12, 20, 24, 28, 30.
T. 15 N., R. 29 E.,
Secs. 12, 14, 26.
T. 16 N., R. 29 E.,
Secs. 28, 34.
T. 12 N., R. 30 E.,
Secs. 1, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 17, 18, 21, 23, 26, 28, 29, 34, 35.
T. 13 N., R. 30 E.,
Secs. 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 30, 34.
T. 12 N., R. 31 E.,
Secs. 3, 10, 15, 21, 22, 27 28, 33, 34.
T. 13 N., R. 31 E.,
Secs. 4, 6, 8, 10, 19, 21, 27, 28, 29, 30, 33, 34.
T. 14 N., R. 31 E.,
Secs. 18, 20, 22, 28, 30, 34.
T. 15 N., R. 31 E.,
Sec. 18.

Comprising 117,430.27 acres in Apache County.

Some of the lands involve base floodplains. Excluding lands within the base floodplain from the exchange is not a practicable alternative. The exchange lands will be subject to Apache County's floodplain management ordinance.

The state lands to be acquired are within the following townships and sections in Navajo, Mohave and Coconino Counties, Arizona.

Gila and Salt River Maridian, Arizona

Navajo County

T. 18 N., R. 19 E.,
Secs. 20, 28.

Comprising 1,280 acres in Navajo County.

Coconino County

T. 36 N., R. 4 E.,
Secs. 2, 16.
T. 37 N., R. 4 E.,
Secs. 2, 16, 32, 36.
T. 37 N., R. 5 E.,
Secs. 16, 32.
T. 38 N., R. 3 E.,
Sec. 2.
T. 38 N., R. 4 E.,
Secs. 16, 32, 36.
T. 38 N., R. 5 E.,
Secs. 31, 32, 36.
T. 38 N., R. 6 E.,
Sec. 16.
T. 39 N., R. 5 E.,
Secs. 16, 17, 18.
T. 40 N., R. 1 E.,
Sec. 16.
T. 40 N., R. 3 E.,
Sec. 36.
T. 40 N., R. 5 E.,
Secs. 1, 2, 11, 12, 25, 36.
T. 40 N., R. 6 E.,
Secs. 2, 29, 30, 31, 32.
T. 41 N., R. 1 E.,
Secs. 2, 16, 32.
T. 41 N., R. 2 E.,
Secs. 2, 16, 32, 36.
T. 41 N., R. 3 E.,
Secs. 2, 16, 32, 36.
T. 41 N., R. 4 E.,
Secs. 2, 32, 36.
T. 41 N., R. 5 E.,
Secs. 32, 35, 36
T. 42 N., R. 1 E.,
Sec. 36.
T. 42 N., R. 2 E.,
Secs. 32, 36.
T. 42 N., R. 3 E.,
Sec. 36.
T. 42 N., R. 6 E.,
Sec. 36.
T. 39 N., R. 1 W.,
Secs. 24, 32.
T. 40 N., R. 1 W.,
Secs. 16, 32.
T. 40 N., R. 2 W.,
Secs. 32, 36.
T. 41 N., R. 1 W.,
Secs. 2, 16, 36.

Comprising 34,953.84 acres in Coconino County.

Mohave County

T. 32 N., R. 12 W.,
Sec. 2.
T. 33 N., R. 11 W.,
Sec. 16.
T. 33 N., R. 12 W.,
Sec. 36.
T. 33 N., R. 14 W.,
Sec. 36.
T. 33 N., R. 15 W.,
Sec. 2.
T. 34 N., R. 7 W.,
Secs. 16, 32.
T. 34 N., R. 8 W.,
Sec. 16.
T. 34 N., R. 9 W.,
Sec. 32.
T. 34 N., R. 10 W.,
Secs. 2, 16, 32, 36.
T. 34 N., R. 11 W.,
Sec. 32.
T. 34 N., R. 12 W.,
Secs. 2, 16, 36.
T. 34 N., R. 13 W.,
Secs. 2, 16.
T. 34 N., R. 14 W.,
Sec. 32.
T. 34 N., R. 15 W.,
Sec. 2.
T. 35 N., R. 5 W.,
Sec. 2.
T. 35 N., R. 6 W.,
Sec. 2.
T. 35 N., R. 7 W.,
Sec. 2.
T. 35 N., R. 8 W.,
Secs. 2, 32.
T. 35 N., R. 9 W.,
Secs. 2, 16, 18, 19, 20, 32, 36.
T. 35 N., R. 10 W.,
Secs. 5, 16, 29, 30, 32, 34, 36.
T. 35 N., R. 11 W.,
Secs. 2, 32, 36.
T. 35 N., R. 13 W.,
Secs. 16, 36.
T. 35 N., R. 15 W.,
Sec. 16.
T. 36 N., R. 4 W.,
Sec. 2.
T. 36 N., R. 6 W.,
Secs. 2, 16, 32, 36.
T. 36 N., R. 7 W.,
Secs. 16, 32.
T. 36 N., R. 8 W.,
Secs. 2, 16, 32, 36.
T. 36 N., R. 9 W.,
Secs. 16, 32, 36.
T. 36 N., R. 10 W.,
Secs. 2, 5, 6, 8, 9, 10, 16, 17, 20, 29, 31, 32, 36.
T. 36 N., R. 11 W.,
Secs. 2, 15, 16, 22, 27, 28, 31, 32, 36.
T. 36 N., R. 12 W.,
Secs. 2, 16, 32, 36.
T. 36 N., R. 13 W.,
Secs. 32, 36.
T. 36 N., R. 16 W.,
Secs. 4, 8, 9, 16, 32, 36.
T. 37 N., R. 4 W.,
Sec. 16.
T. 37 N., R. 5 W.,
Sec. 32.
T. 37 N., R. 7 W.,
Secs. 2, 36.
T. 37 N., R. 8 W.,
Secs. 2, 16, 32, 36.
T. 37 N., R. 9 W.,
Secs. 2, 10, 16, 32, 36.
T. 37 N., R. 10 W.,
Secs. 2, 10, 15, 16, 21, 22, 32.
T. 37 N., R. 11 W.,
Secs. 16, 32, 36.
T. 37 N., R. 12 W.,
Secs. 2, 36.
T. 37 N., R. 13 W.,
Secs. 16, 32, 36.
T. 37 N., R. 14 W.,
Secs. 2, 16, 32.
T. 38 N., R. 5 W.,
Secs. 2, 15, 16, 21, 22, 32, 36.
T. 38 N., R. 6 W.,
Secs. 2, 4, 5, 6, 11, 12, 16, 32, 36.
T. 38 N., R. 7 W.,
Sec. 36.
T. 38 N., R. 8 W.,
Secs. 2, 16, 32, 36.
T. 38 N., R. 9 W.,
Secs. 16, 32, 36.
T. 38 N., R. 10 W.,
Secs. 2, 16.
T. 38 N., R. 12 W.,
Secs. 2, 10, 36.
T. 39 N., R. 4 W.,
Secs. 2, 13, 14, 16.
T. 39 N., R. 5 W.,
Secs. 32, 36.
T. 39 N., R. 6 W.,
Secs. 14, 29, 31, 32, 36.
T. 39 N., R. 8 W.,
Secs. 2, 16, 32, 36.
T. 39 N., R. 9 W.,
Secs. 2, 16, 32, 36.
T. 39 N., R. 12 W.,
Sec. 36.
T. 39 N., R. 13 W.,
Sec. 2.
T. 40 N., R. 3 W.,
Sec. 32.
T. 40 N., R. 7 W.,
Sec. 16.
T. 40 N., R. 9 W.,
Secs. 16, 32, 36.
T. 40 N., R. 10 W.,
Secs. 16, 32.
T. 40 N., R. 11 W.,
Sec. 16.
T. 40 N., R. 12 W.,
Sec. 16.
T. 40 N., R. 15 W.,
Sec. 16.
T. 41 N., R. 7 W.,
Secs. 8, 16, 32.
T. 41 N., R. 8 W.,
Secs. 19, 36.

T. 41 N., R. 9 W.,
Secs. 2, 12, 16, 17, 32, 36.
T. 41 N., R. 13 W.,
Secs. 32, 36.
T. 41 N., R. 15 W.,
Sec. 30.
T. 42 N., R. 7 W.,
Sec. 12.
T. 42 N., R. 8 W.,
Secs. 31, 32.
T. 42 N., R. 9 W.,
Secs. 32, 36.
T. 42 N., R. 16 W.,
Sec. 36.

Comprising 108,755.10 acres in Mohave County.

Coconino and Mohave Counties

T. 38 N., R. 3 W.,
Secs. 16, 32.

Comprising 1,279.41 acres in Coconino and Mohave Counties.

The public land will be conveyed under the following terms and conditions.

1. Subject to rights of record as follows:

Roads: A 18951 through A 18956, A 18557
Transmission lines: A 10117, A 16639, AR 017703, A 6016
Telephone lines: A 10023, A 6612, A 17432
Reservoirs: PHX 010306, PHX 086591, PHX 022311, PHX 012973
Railroads: PHX 086788, A 9543
Communication site: AR 033064
Oil and gas leases: A 22136, A 23078

2. Reservations to the United States for the following:

Communications site: A 3544
Roads: Ar 030466, PHX 080803

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the affected public lands from appropriation under the public land laws and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first. This Notice terminates Notices of Realty Action A 20346–D and A 20346–R affecting the previously described public lands.

Detailed information concerning this exchange can be obtained from the Phoenix District Office. For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Henri R. Bisson,

District Manager.

Date: June 28, 1988.

[FR Doc. 88–15107 Filed 7–5–88; 8:45 am]

BILLING CODE 4310–32–M

[ID–943–08–4220–11; I–20243]

Partial Termination of Recreation and Public Purpose Classification; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification termination.

SUMMARY: This order partially terminates a Bureau of Land Management classification affecting .99 acre of public land near Wallace, Idaho. After termination of the classification, the underlying lands will immediately become available for disposal through a pending public sale action.

EFFECTIVE DATE: July 6, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy Bloyer, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208–334–1471.

By virtue of the authority vested in the Secretary of the Interior by the Recreation and Public Purposes Act of June 14, 1926, as amended; 43 U.S.C. 869; 869–4; it is ordered as follows:

1. Pursuant to regulations in 43 CFR 2091.7–1(b)(1) and the authority delegated to me by BLM Manual Section 1203 (48 FR 85), the classification decision of April 26, 1984, which classified 9.87 acres of public land as suitable for recreation and public purposes under the Act of June 14, 1926, as amended; 43 U.S.C. 869; 869–4, under serial number I–20243, is hereby revoked insofar as it affects the following-described lands, for which approval of survey is pending:

Boise Meridian, Idaho

T. 48 N., R. 4 E.
Sec. 26, lot 21.

The area described contains .99 acre in Shoshone County.

2. Upon termination of the classification, the underlying lands will immediately become available for disposal through a pending public sale action under section 203 of the Federal Land Policy and Management Act of 1976.

Pieter J. Van Zanden,

Associate State Director.

Dated: June 23, 1988.

[FR Doc. 88–15082 Filed 7–5–88; 8:45 am]

BILLING CODE 4310–GG–M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–728605

Applicant: Cleveland Metroparks Zoo, Cleveland, OH.

The applicant requests a permit to import one pair of clouded leopards (*Neofelis nebulosa*), captive born at Zhongshan Park, Wuhan, People's Republic of China. The leopards will be imported from the Wuhan Zoo for purposes of captive propagation and display.

PRT–728453

Applicant: San Diego Wild Animal Park, San Diego, CA.

The applicant requests a permit to import one wild-caught female mountain tapir (*Tapirus pinchague*) from the Zoological de Cali, Colombia, to help further captive propagation efforts and reduce the impact of inbreeding.

PRT–728604

Applicant: Cleveland Metroparks Zoo, Cleveland, OH.

The applicant requests a permit to import one male and two female captive born Francois' langurs (*Presbytis francoisi*) from the Wuhan Zoo, People's Republic of China, for purposes of captive propagation and display.

PRT–728694

Applicant: James W. Spencer, Atlanta, GA.

The applicant requests a permit to import the personal sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*), culled from the captive-herd maintained by Mr. P. Cawood, Gannahoek, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT–728452

Applicant: San Diego Zoological Society, San Diego, CA.

The applicant requests a permit to import six captive-hatched golden-shouldered (-hooded) parakeets

(*Psephotus chrysopterygius*) from the Royal Melborne Zoological Gardens, Victoria, Australia, for the purpose of propagation, education and exhibit.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 403, 1375 K. Street NW., Washington, DC 20005, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 27329, Washington, DC 20038–7329.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: June 27, 1988.

S.M. Lawrence,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 88–15100 Filed 7–5–88; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Development Operations Coordination Document; Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 5444 and 5446, Blocks 352 and 359, respectively, Vermilion 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 Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on June 22, 1988. Comments must be received within 15 days of the publication date of this Notice 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: Mr. Lars T. Herbst, Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2533.

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 became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: June 23, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88–15083 Filed 7–5–88; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–183 Ancillary Proceeding]

Certain Indomethacin; Issuance of an Order Adopting Recommended Determination Finding No Abuse of Commission Process and of Issuance of an Opinion Discussing Allegations of Abuse of Process and Commission's Verification Requirement

AGENCY: U.S. International Trade Commission.

ACTION: (1) Issuance of an order adopting the recommended determination (RD) of the administrative law judge in the investigation, finding no abuse of Commission process, insofar as the RD is not inconsistent with a concurrently issued Commission opinion, and denying respondent Lederle Laboratories' request for oral argument; and (2) issuance of an opinion discussing allegations of abuse of process by complainant in the above-captioned investigation, as well as the obligations of parties who verify submissions pursuant to 19 CFR 210.20(a)(1) and 210.21(b).

SUMMARY: The Commission has reviewed a recommended determination (RD) in which the presiding administrative law judge (ALJ) determined that complainant Merck & Co., Inc. (Merck) had not abused Commission process by filing an arguably misleading complaint or through its discovery and settlement conduct. The Commission has issued an opinion discussing the allegations against Merck and the meaning of the Commission's verification requirements. The Commission has adopted the RD insofar as it is consistent with the Commission's opinion.

FOR FURTHER INFORMATION CONTACT: Laurie B. Horvitz, Esq., Office of the General Counsel, U.S. International Trade Commission, tel. 202–252–1107.

SUPPLEMENTARY INFORMATION: Investigation No. 337–TA–183 as instituted on February 14, 1984, based on a complaint filed by Merck under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) alleging unfair acts in the importation and sale of indomethacin manufactured abroad by a process which, if practiced in the United States, would infringe claims of U.S. Letters Patent 3,629,284 with the effect or tendency to substantially injure an efficiently and economically operated domestic industry.

On October 3, 1984, respondent Lederle Laboratories (Lederle) filed a motion requesting a "*Prima Facie* Determination of Abuse of Commission Process by Merck and for Institution of Ancillary Proceedings for the Assessment of Lederle's Fees and Costs Against Merck." Other respondents joined in Lederle's motion.

On December 30, 1986, the Commission issued a notice certifying Lederle's motion alleging abuse of Commission process, together with the motions of other respondents who had joined Lederle's motion, and the responses thereto, to the ALJ. Following

an evidentiary hearing, the ALJ issued the RD that is the subject of this notice.

Copies of the Commission's Order, the opinions issued in connection therewith, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–252–1000.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: June 30, 1988.

[FR Doc. 88–15136 Filed 7–5–88; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–267]

Certain Minoxidil Powder, Salts and Compositions For Use in Hair Treatment; Continued Suspension of Investigation

AGENCY: International Trade Commission.

ACTION: Suspension of investigation.

SUMMARY: Notice is given that the Commission has determined to continue the suspension of the above-captioned investigation until 30 days after publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1092.

SUPPLEMENTARY INFORMATION: This action is taken pursuant to section 337(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(1)) and Commission rule 210.59 (19 CFR 210.59). On February 16, 1988, the presiding administrative law judge (ALJ) issued an initial determination (ID) finding a violation of section 337. The Commission investigation attorney (IA) filed a petition for review which included a suggestion to suspend the investigation pending final action by the FDA. On April 4, 1988, the Commission determined to review portions of the ID. Written submissions were filed by Upjohn and the IA. No public comments were received, but the FDA filed a written submission on May 13, 1988. On May 13, 1988, the Commission determined to suspend the investigation for 30 days from publication of notice of such decision in the **Federal Register.**

Copies of the nonconfidential version of the Commission Order, the ID, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1000.

Hearing-impaired individuals are advised that information on this matter can be obtained contacting the Commission's TDD terminal on 202–252–1810.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: June 27, 1988.

[FR Doc. 88–15134 Filed 7–5–88; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–266]

Certain Reclosable Plastic Bags and Tubing; Institution of Advisory Opinion Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Institution of advisory opinion proceeding.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute and advisory opinion proceeding relating to the exclusive order issued in April 1988 at the conclusion of the above-captioned investigation. Two requests were filed with the Commission requesting the Commission to issue advisory opinions pursuant to 19 CFR 211.54(b) regarding whether certain reclosable plastic bags sought to be exported to the United States are covered by the exclusion order issued at the conclusion of the above-captioned investigation: (1) On March 4, 1988, on behalf of Kingdom Plastics Manufacturing Co. (KPM) of Taiwan, and (2) on June 13, 1988, on behalf of KCL Corp. of Indiana and KCL Corporation of Canada Ltd. (KCL).

FOR FURTHER INFORMATION CONTACT: Paul Bardos, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–252–1102.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of sections 335 and 337 of the Tariff Act of 1930 (19 U.S.C. 1335 and 1337) and 19 U.S.C. 1337a, and Commission rules 201.4(b) and 211.54(b) (19 U.S.C. 201.4(b) and 211.54(b)).

On November 30, 1987, the Commission issued a temporary exclusion order (TEO) in the subject investigation. On March 4, 1988, KPM filed a request for an advisory opinion as to whether certain reclosable plastic bags that KPM seeks to export to the United States from Taiwan were covered by the TEO. KPM asked that, if the TEO were replaced by a permanent exclusion order before the completion of the Commission's advisory opinion proceeding, KPM's request should be considered to apply to the permanent exclusion order. On April 7, 1988, the Commission determined to delay consideration of institution of an advisory opinion proceeding until after the issuance of permanent relief. On April 29, 1988, the Commission issued a permanent exclusion order in the subject investigation. On June 13, 1988, KCL Corp. of Indiana and KCL Packaging Corporation of Canada Ltd. (KCL) filed a petition for an advisory opinion as to whether certain reclosable plastic bags that KCL seeks to export to the United States from Canada covered by the exclusion order.

Copies of the Commission's Order, public versions of the KPM and KCL submission requesting advisory opinions, and all other nonconfidential documents filed in connection with this proceeding are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1000. Hearing-impaired individuals are advised that information on this matter can be obtained contacting the Commission's TDD terminal on 202–252–1810.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: June 28, 1988.

[FR Doc. 88–15135 Filed 7–5–88; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Pollution Control; Consent Judgments; Seabrook, TX et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on June 23, 1988, a proposed Consent Decree in *United States* v. *City of Seabrook, Texas and the State of Texas*, Civil Action Number H–87–734, was lodged with the United States

District Court for the Southern District of Texas. The Complaint filed by the United States alleged violations of the Water Pollution Prevention and Control Act, as amended (the "Clean Water Act"). Defendant City of Seabrook owns and operates a wastewater treatment facility that treats municipal wastewater. The City violated the Clean Water Act by discharging pollutants into Pine Gully and thence into Galveston Bay in excess of the amounts authorized under its National Pollutant Discharge Elimination System ("NPDES") permit.

The Consent Decree requires the City to comply with its NPDES permit for six months following filing of the Decree. If the City fails to comply with its permit for six consecutive months, the City is required to design and implement a program to achieve and maintain compliance with the permit. The Consent Decree also provides that the defendant shall pay a civil penalty of $35,000.00.

The Department of Justice will receive for a period of thirty (30) days from the date of publication of this notice comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Seabrook, Texas and the State of Texas*, D.J. No. 90-5-1-1-2735.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Courthouse and Federal Building, 515 Rusk Avenue, 3rd Floor, Houston, Texas 77208, at the Region VI Office of the Environmental Protection Agency, Office of Regional Counsel, 1201 Elm Street, Dallas, Texas 75270, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to *United States* v. *City of Seabrook, Texas and the State of Texas*, D.J. No. 90-5-1-1-2735, and include a check for $1.30 (10 cents per page reproduction charge) payable to the United States Treasury.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-15080 Filed 7-5-88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Child Labor Advisory Committee; Subcommittee on Child Labor Regulation No. 3

A meeting of the Child Labor Advisory Committee, Subcommittee on Child Labor Regulation No. 3, will be held on July 26, 1988, from 9:00 a.m. to 5:00 p.m. This meeting will be held in Room N2437, Frances Perkins Building, Department of Labor, 200 Constitution Avenue NW., Washington, DC.

The Subcommittee will consider Child Labor Regulation No. 3, Employment Standards for 14- and 15-year-olds, including the permitted hours of work for such youth.

Members of the public are invited to attend these proceedings; however, since these are work sessions, seating is limited. Written data, reviews or arguments pertaining to the business before the Subcommittee must be received by the Committee Coordinator by July 19, 1988. Twenty-six copies are needed for distribution to the members and for inclusion in the meeting minutes.

Telephone inquiries and communications concerning this meeting should be directed to Ms. Nila Stovall, Coordinator for the Child labor Advisory Committee, Room S-3028, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: area code (202) 523-7640.

Signed at Washington, DC this 28th day of June 1988.

Paula V. Smith,

Administrator.

[FR Doc. 88-15178 Filed 7-5-88; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Burlington Industries, Inc., et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 18, 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 July 18, 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 27th day of June 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date received	Date petition	Petition No.	Article produced
Burlington Industries, Inc., Klopman Fabrics Div. (Workers).	Mountain City, TN	6/27/88	6/7/88	20,739	Polyester Textured Yarn & Woven Fabrics.
Columbia Tool Steel (Workers)	Chicago Hgts, IL	6/27/88	6/9/88	20,740	Tool Steel Products.
Donora Sportswear Inc. (ACTWU)	Donora, PA	6/27/88	6/8/88	20,741	Men's & Women's Wool Coats.

APPENDIX—Continued

Petitioner (Union/Workers/Firm)	Location	Date received	Date petition	Petition No.	Article produced
Emple Knitting Mills (ILGWU)	Brewer, ME	6/27/88	6/15/88	20,742	Men's Sweaters.
Flair Manufacturing (Company)	Keansburg, NJ	6/27/88	6/10/88	20,743	Paint Rollers & Trays.
Linbro Contractors (ILGWU)	New York, NY	6/27/88	6/27/88	20,744	Girls' Sportswear.
Romada Moccasins, Inc. (Workers)	Auburn, ME	6/27/88	6/9/88	20,745	Shoes.
Schrader Sport (ILGWU)	Secaucus, NJ	6/27/88	6/7/88	20,746	Ladies' Sportswear.
Sobel Brothers (Workers)	Perth Amboy, NJ	6/27/88	6/13/88	20,747	Costume Jewelry.
Stewart Warner Corp./Bassick Division (IUE)	Bridgeport, CT	6/27/88	6/13/88	20,748	Castors.
Toastmaster Inc. (Workers)	Moberly, MO	6/27/88	6/14/88	20,749	Heaters and Fans.

[FR Doc. 88-15180 Filed 7-5-88; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Forest Enterprises, Inc., et al.

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 June 20, 1988–June 24, 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-20,640; Forest Enterprises, Inc., USK, WA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-20,627; Rio Algom Mining Corporation, Lisbon Mine & Mill, Moab, UT

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,638; Edison Battery Product, Belleville, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,635; Bethlehem Steel Corp., Dept 330, Bethlehem Plant, Bethlehem, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,705; Mellon Bank Corp., Pittsburgh, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,676; Quarto Mining Co., Powhatan, Point, OH

U.S. imports of coal in 1987 were negligible.

TA-W-20,621; Budget Dress Corp., Secaucus, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,675; Pea Ridge Iron Ore Co., Inc., Sullivan, MO

U.S. imports of iron ore including pellets and sinter declined absolutely and relative to domestic production in the first three quarters of 1987 compared to the same period in 1986.

Affirmative Determinations

TA-W-20,633; Westinghouse Electric Corp., Pittsburgh, PA

A certification was issued covering all workers separated on or after October 1, 1987.

TA-W-20,652; Westland Oil Development Corp., Montgomery, TX

A certification was issued covering all workers separated on or after April 21, 1987.

TA-W-20,636; Cambridge Instruments, Inc., Buffalo, NY

A certification was issued covering all workers separated on or after April 18, 1987.

I hereby certify that the aforementioned determinations were issued during the period June 20, 1988–June 24, 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: June 28, 1988.

[FR Doc. 88-15185 Filed 7-5-88; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-88-102-C]

Colorado Westmoreland Inc.; Petition for Modification of Application of Mandatory Safety Standard

Colorado Westmoreland Inc., P.O. Box 1299, Paonia, Colorado 81428 has filed a petition to modify the application of 30 CFR 75-326 (aircourses and belt haulage entries) to its Orchard Valley West Mine (I.D. No. 05-04184) located in Delta County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. In a separate petition (M-88-100-C), petition proposes to install an early warning fire detection system, using a low-level carbon monoxide system. The system would be installed and operated

with specific conditions in all belt entries used as intake aircourses.

3. As an alternate method, petitioner proposes to use air which is coursed through the belt haulage and/or track entries to ventilate active working places.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request of 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 August 5, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: June 24, 1988.

[FR Doc. 88-15181 Filed 7-5-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-101-C]

Colorado Westmoreland Inc.; Petition for Modification of Application of Mandatory Safety Standard

Colorado Westmoreland Inc., P.O. Box 1299, Paonia, Colorado 81428 has filed a petition to modify the application of 30 CFR 75.1103-4(a) (automatic fire sensor and warning device systems; installation; minimum requirements) to its Orchard Valley West Mine (I.D. No. 05-04184) located in Delta County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. In a separate petition (M-88-102-C), petitioner proposes to use air which is coursed through the belt entry to ventilate active working places.

3. In lieu of a heat detection system, petitioner proposes to use an early-warning fire detection system using a low-level carbon monoxide detection system. The system would be installed and operated with specific conditions in all belt entries used as intake aircourses.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request of 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 August 5, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: June 24, 1988.

[FR Doc. 88-15182 Filed 7-5-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-100-C]

Colorado Westmoreland Inc.; Petition for Modification of Application of Mandatory Safety Standard

Colorado Westmoreland Inc., P.O. Box 1299, Paonia, Colorado 81428 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 Orchard Valley West Mine (I.D. No. 05-04184) located in Delta County, Colorado. 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 into the return.

2. As an alternate method, petitioner proposes to use air currents which are used to ventilate structures to also ventilate active working places rather than coursing such air currents into the returns.

3. In support of this request petitioner proposes that an early warning fire detection system would be installed. A low-level carbon monoxide detection system would be installed in all belt entries utilized as intake aircourses and at each belt drive and tailpiece located in 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 with the CO level is 10 ppm above the ambient level and an audible signal would sound at 15 ppm above the ambient level for the mine. The CO monitoring system would initiate the firealarm signals at a central location where a responsible person is always on duty when miners are underground. This person would have two-way communication with all personnel who may be endangered, and would be able to hear or observe the signals and take appropriate action immediately. The CO system would be capable of identifying any activated sensor and for monitoring electrical continuity and detecting electrical malfunctions.

4. The CO monitoring system would be visually examined at least once each shift and tested for functional operation weekly to ensure that 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 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 a hand-held CO detecting device.

6. The details for the fire detection system including, but no limited to, type of monitor, sensor location, alarm system and maintenance and calibration schedule would be included as a part of the Ventilation System and Methane and Dust Control Plan.

7. The permanent stoppings separating the conveyor belt entries from the intake escapeway would be specifically approved in the Ventilation System and Methane and Dust Control Plan for the mine.

8. 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

August 5, 1988. Copies of the petition are availble for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: June 24, 1988.

[FR Doc. 88-15183 Filed 7-5-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-93-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 Chetopa Mine (I.D. No. 01-00323) located in Jefferson 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 when utilizing belt air to ventilate active working places.

3. An early warning fire 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 with 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 shift and tested for functional operation weekly to ensure that 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 a 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. In support of this request, petitioner states that—

(a) In addition to the existing intake air entries, the mine would utilize the belt entries as intake air entries. Utilizing the belt entries as intake entries would eliminate any possible dead air areas and prevent possible air reversals due to changes in ventilating pressure. Further, utilizing the belt entries as intake entries would provide some increase in air volume in the last open crosscut, and would provide extra flexibility to the mine to quickly direct more air to dilute any concentrations of methane, which may occur at the working faces;

(b) The mine would continuously maintain the average concentration of respirable dust in belt entries utilized as intake aircourses within the requirements set forth in the regulations;

(c) Main line belt entries are in brushed headings and thus would allow for a less restricted flow of air to the face area, since ceilings in these entires are higher than in the low seam intake entries;

(d) The belt entries would continue to be used as travelways. Thus, it will be easy for those traveling the belt entries to continuously inspect them for safety purposes;

(e) The mine would continue to keep its battery-charging stations located on the belt entries ventilated directly to the return air, so as to prevent any fumes from reaching the workers on the face; and

(f) The mine would continue to isolate the belt entries which are used as intake entries from other intake and return entries with the use of continuous permanent-type stoppings. The mine would continue to provide an escapeway ventilated with intake air and would continue to keep it separate from the belt and track entries.

8. 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 August 5, 1988. Copies of the petition are availble for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: June 27, 1988.

[FR Doc. 88-15184 Filed 7-5-88; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on Preservation; Meeting

Notice is hereby given that the Ad Hoc Subcommittee on the Preservation of Video Recordings of the Advisory Committee on Preservation will meet on July 28-29, 1988. The meeting will be held from 10 a.m. to 4 p.m. on Thursday, July 28, 1988 and 9 a.m. to 1 p.m. on July 29, 1988, in Room 105 of the National Archives Building, 7th and Pennsylvania Avenue, NW., Washington, DC 20408.

The agenda for the meeting will be:

1. Video preservation issues.

2. Review of technological developments.

3. Discussion of preservation options.

This meeting is open to the public. For further information, contact Alan Calmes on (202) 523-1546.

Notice of the meeting is made in accordance with the Federal Advisory Committee Act.

Dated: June 29, 1988.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 88-15106 Filed 7-5-88; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC. 20506.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786–0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determind that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9) (B) of section 552b of Title 5, United States Code. .

1. DATE: July 25, 1988.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: M–14.
PROGRAM: This meeting will review applications for Elementary and Secondary Education in the Humanities, submitted to the Division of Education Programs, for projects beginning after November 30, 1988.

2. DATE: July 27, 1988.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: M–14.
PROGRAM: This meeting will review applications for Elementary and Secondary Education in the Humanities, submitted to the Division of Education Programs, for projects beginning after November 30, 1988.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 88–15109 Filed 7–5–88; 8:45 am]
BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413 and 50–414]

Duke Power Co. et al.; Environmental Assessment and Finding of No Significant Impact

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–35 and NPF–52 issued to Duke Power Company, et al., (the licensee), for operation of the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina.

Environmental Assessment

Identification of Proposed Action

The amendments would change Technical Specification (TS) 5.3.1 "Fuel Assemblies" to provide increased flexibility in the substitution of solid stainless steel rods and open water channels (i.e., vacancies) for fuel rods in reconstitutible fuel assemblies to be reinserted in the reactor core during a refueling outage. Presently, TS 5.3.1 requires that each fuel assembly contain 264 fuel rods clad with Zircaoly-4, except that limited substitutions of fuel rods with filler rods consisting of Zircaloy-4 or stainless steel, or by vacancies, may be made in peripheral fuel assemblies if justified by cycle-specific reload analyses. The revised TS 5.3.1 would require that each fuel assembly nominally contain 264 fuel rods clad with Zircaloy-4, except that substitutions of fuel rods by filler rods consisting of Zircaloy-4 or stainless steel, or by vacancies, may be made in fuel assemblies if justified by cycle-specific reload analyses using NRC-approved methodology. The proposed revision would also state that should more than 30 rods in the core, or 10 rods in any assembly, be replaced per refueling, a special report describing the number of rods replaced would be submitted to the Commission pursuant to Specification 6.9.2 within 30 days after cycle startup.

The Need for the Proposed Action

The proposed TS change which removes TS requirements concerning "limited substitutions" and "peripheral fuel assemblies" is needed to provide increased operational flexibility. Under the proposed change, limitations on fuel rod substitutions or omissions and limitations regarding core locations are those implicit in the justifying analyses required to be performed by the licensee for each fuel cycle using NRC-approved methodology to demonstrate that existing design limits and safety analyses criteria continue to be met. The proposed flexibility is intended to provide for improved fuel performance by permitting the timely removal of individual fuel rods which are found to be leaking during a refueling outage. The requirement for special reporting is proposed in response to the NRC's request to be informed in the event a significant deviation from past fuel performance should be observed during a refueling outage.

Environmental Impacts of the Proposed Action

The purpose of the change is to provide for reductions in future occupational radiation exposure and plant radiological releases through improvements in the licensee's fuel performance program. The licensee's goal for fuel reliability improvement is that the cycle average steady-state Iodine-131 activity, corrected for tramp contribution and normalized to a common purification rate, remain below 0.02 microcuries per gram. This corresponds to about 12 leaking fuel rods. The licensee's goal is to achieve one-half the present goal, or 0.01 microcuries per gram, by 1990 and beyond. This will be achieved, in part, by an action plan of outage inspections and reconstitution; if the I–131 activity exceeds 0.05 microcuries per gram anytime during the cycle, then all of the reconstitutible assemblies to be reinserted will be examined by special ultrasonic testing (UT) equipment for defects in individual failed rods and results used for reconstitution decisions. Fuel handling, UT, and reconstitution of failed assemblies of a reconstitutible top-nozzle design would be conducted in parallel during refueling outages. The licensee estimates the fuel improvement program will reduce the total station occupational dose by at least 5 to 10 percent. Radiological releases from the station during normal operation would also be significantly reduced because of improved fuel performance.

The Commission has completed its review of the proposed amendments to revise the TS. The revision does not result in any significant adverse change in the process for determining the adequacy for reload designs and plant operation. The licensee will continue to

justify each cycle-specific reload by analyses using NRC-approved methodology in order to demonstrate that existing design and operating limits are met in advance of operation. Therefore, the proposed change does not increase the probability or consequences of accidents. As discussed above, no adverse changes are being made in the types or amounts of effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure.

Accordingly, the Commission concludes that this proposed action would result in no significant adverse radiological environmental impact.

With regard to potential non-radiological impacts, the proposed change to the TS involves systems located within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental efffects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendments. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the "Final Environmental Statement Related to the Operation of the Catawba Nuclear Station, Units 1 and 2," dated January 1983.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the applications for amendments dated April 1, 1988 and a previous application of February 5, 1988 which it replaced. Also see D. Hood's memorandum dated April 1, 1988, entitled "Summary of March 28, 1988 Meeting on TS Changes Regarding Use of Steel Rods and Open Water Channels in Reconstitutible Fuel Assemblies." These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Dated at Rockville, Maryland, this 29th day of June 1988.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Project Directorate II–3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–15124 Filed 7–5–88; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 2 to Regulatory Guide 1.100, "Seismic Qualification of Electric and Mechanical Equipment for Nuclear Power Plants," describes a method acceptable to the NRC staff for complying with NRC's regulations with respect to seismic qualification of mechanical as well as electric equipment. This guide endorses, with certain exceptions, the revised IEEE Std 344–1987, "Recommended Practice for Seismic Qualification of Class 1E Equipment for Nuclear Power Generating Stations."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082, telephone (202) 275–2060 or (202) 275–2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 29th day of June 1988.

For the Nuclear Regulatory Commission.

Eric S. Beckjord,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 88–15126 Filed 7–5–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–255]

Consumers Power Co.; Consideration of Issuance of Amendment to Provisional Operating License and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR–20, issued to Consumers Power Company (the licensee), for operation of the Palisades Plant located in Van Buren County, Michigan.

In accordance with the licensee's application for amendment dated March 25, 1988, as modified by the licensee's submittal dated June 17, 1988, the amendment would revise the provisions in the Technical Specifications to add additional limitations to plant operation with less than four reactor coolant pumps operating to conform to the analyses for certain postulated accidents; modify the reactor protection system set points, limiting conditions for operation, and surveillance requirements to reflect the modifications proposed for the reactor protection system; and replace the 1530 psi transient differential limit with a steady state limit of 1380 psi for the steam generator primary to secondary. There are also editorial changes to delete out-of-date footnotes and modify bases and references to reflect the revised licensing basis analyses.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended

(the Act) and the Commission's regulations.

By August 4, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject provisional operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Martin J. Virgilio: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated March 25, 1988, and the licensee's submittal dated June 17, 1988, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Van Zoeren Library, Hope College, Holland, Michigan 49201.

Dated at Rockville, Maryland, this 28th day of June, 1988.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Director, Project Directorate III–1, Division of Reactor Projects—III, IV, V & Special Projects.

[FR Doc. 88–15123 Filed 7–5–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–309]

Maine Yankee Atomic Power Co.; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 105 to Facility Operating License No. DPR–36 issued to Maine Yankee Atomic Power Company (the licensee), which revised the Technical Specifications for operation of the Main Yankee Atomic Power Plant located in Lincoln County, Maine. The amendment was effective as of the date of issuance.

The amendment changed the maximum normal enrichment of the fuel allowed to be used in the reactor core for operating cycle 11 and beyond from 3.5 percent nominal weight U-235 to 3.7 percent nominal weight U–235.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which is set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on April 29, 1988 (53 FR 15479). 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 24383) 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 the human environment.

For further details with respect to the action see (1) the application for amendment dated March 24, 1988, (2) Amendment No. 105 to License No. DPR-36, 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, DC and at the Wiscasset Library, High Street, P.O. Box 367, Wiscasset, Maine 04578. 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 28th day of June 1988.

For the Nuclear Regulatory Commission.

Carl R. Stahle,

Project Manager, Project Directorate I-3, Division of Reactor Projects, I/II.

[FR Doc. 88-15125 Filed 7-5-88; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25860; File No. SR-CBOE-85-42]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), on October 18, 1985, filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposal relating to accommodation liquidations. In a subsequent release, the Commission published for comment and granted accelerated approval to those portions of the proposal relating to options other than foreign currency and government securities options (*i.e.*, equity and index options).[3] In two amendments to its original rule filing [4] and in a letter to the Commission,[5] the CBOE subsequently modified and clarified its proposal to permit accommodation liquidations in government securities options.[6] The Commission today is approving that portion of the original CBOE filing, as amended, which would permit under certain circumstances accommodation liquidations in government securities options.

Accommodation liquidations, or cabinet trading, of options contracts is designed to enhance the ability of market participants to effect closing transactions in series of options in which there is no auction market due to the absence of a bid or offer at the lowest fractional price per contract.[7] Prior to approval of the CBOE's original rule filing, cabinet orders only could be entered for closing or liquidating transactions. Accordingly, closing cabinet orders remained unexecuted unless there were closing cabinet orders with which they could be paired.

The Commission, citing the need to further facilitate the closing out of positions in inactive, out-of-the-money options series for which there are no displayed bids or offers at the lowest fractional price per contract, approved the original CBOE proposal as it related to accommodation liquidations of equity and index options. CBOE Rule 6.54 now permits entry of opening orders in the cabinet, at a limit price of $1 per contract, against closing cabinet bids or offers, but only if such closing bids or offers are displayed on the public limit order book. All such opening orders, however, must yield to any matching, closing orders in the cabinet, and thus opening orders are permitted only to the extent there are no matching closing bids or offers. In addition, customers, firms, and market makers can enter opening orders only when closing orders already exist in the cabinet.

At the time it approved accommodation liquidations in equity and index options, the Commission declined to approve accommodation liquidation procedures for government securities options. In so doing, the Commission expressed its concern that cabinet trading of government securities options could be difficult to facilitate because of the lack of an Order Book Official ("OBO") or Board Broker in such options to accept and keep track of cabinet orders.

As noted above, the CBOE in two subsequent amendments to its original filing and in a letter to the Commission staff clarified and revised its proposal to permit accommodation trading in government securities options. In particular, the Exchange now proposes to permit bids or offers for opening transactions at a price of $1 per option to be executed only with closing transactions which cannot at that time be executed in open outcry with other closing transactions.[8]

The Exchange also proposes to require all opening and closing trade tickets for government securities options accommodation trades to be stapled together and collected by an exchange official at the relevant trading post.[9] This would allow the Exchange to maintain a paper trail for surveillance purposes. Last, the CBOE proposes to distribute to members a memorandum explaining the procedures described herein.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of seciton 6 [10] and the rules and regulations thereunder. The Commission believes that the procedures proposed by the CBOE to permit accommodation trading of government securities options will help promote liquidity in the government securities options market. In particular, allowing customers to open positions in out-of-the-money series of government securities options should increase the number of contra orders available to market participants seeking to close out positions in out-of-the-money series. At the same time, the Exchange's new requirements should help ensure that opening $1 transactions are executed only with closing transactions which at that time cannot be executed in open outcry with other closing transactions. While the presence of an OBO or Board Broker might make it easier to ensure that closing orders are represented continuously at the post, the largely

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1988).

[3] Securities Exchange Act Release No. 22733 (Dec. 20, 1985), 50 FR 53050. The release also granted approval to the Pacific Stock Exchange's accommodation liquidation procedures (File No. SR-PSE-85-26).

[4] Amendment No. 1 was received by the Commission on November 15, 1985; Amendment No. 2 on February 12, 1986.

[5] Letter from Anne Taylor, Associate General Counsel, CBOE, to David Underhill, Attorney, Division of Market Regulation, SEC, dated October 6, 1987.

[6] The CBOE since has discontinued foreign currency options trading.

[7] The lack of bids or offers at the lowest fractional price per contract typically occurs in deep out-of-the-money options series.

[8] CBOE Rule 21.15 would be amended to read as follows: Accommodation trading under the applicable terms and conditions of Rule 6.54 shall be available in each series of government securities option contracts open for trading on the Exchange. However, bids or offers for opening transactions at a price of $1 per option contract may be executed only with closing transactions that cannot at that time in open outcry be executed with another closing transaction.

[9] *See* letter cited at note 6, *supra*.

[10] 15 U.S.C. 78f (1982).

institutional nature of this market makes the presence of an OBO less important for cabinet trading than it would be for equity or index option trading. Moreover, the Commission believes the Exchange has devised procedures adequate to promote the fair and efficient functioning of the largely institutional market for government securities options.

It Therefore Is Ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: June 28, 1988.

[FR Doc. 88-15075 Filed 7-5-88; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

June 29, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Dreyfus Strategic Government Income Inc.
Common Stock, $.001 Par Value (File No. 7-3586)
Long Island Lighting
$3.50 Cumulative Preferred X, $25.00 Par Value (File No. 7-3587)
National Australia Bank Limited
American Depository Shares, No Par Value (File No. 7-3588)
Putnam Intermediate Government Income Trust
Shares of Beneficial Interest (File No. 7-3589)
Spain Fund, Inc. (The)
Common Stock, $1.00 Par Value (File No. 7-3590)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 21, 1988, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-15076 Filed 7-5-88; 8:45 am]

BILLING CODE 8010-01-M

[11] 15 U.S.C. 78s(b)(2) (1982).

[Release No. 34-25862; File No. 4-284]

Self Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Amendment to Plan for Reporting Minor Disciplinary Rule Violations

The New York Stock Exchange, Inc. ("NYSE") submitted on March 27, 1987 a proposed amendment to its minor rule violation plan, pursuant to Rule 19d-1(2)(c) under section 19(d)(1) of the Securities Exchange Act of 1934 ("Act").[1] The minor disciplinary rule plan relieves the NYSE of the current reporting requirement otherwise imposed by section 19(d)(1) of the Act for "final" disciplinary actions, for those rule violations listed under NYSE Rule 476A designated as minor disciplinary rule violations.[2] The amendment adds violations of NYSE Rule 342.20 and NYSE Rule 476(a)(11) to the list of minor violations subject to the plan.[3]

Violations of Rules 476(a)(11) and Rule 342.20 will be reported to the Commission in a manner identical to all other violations subject to the minor disciplinary rule plan. Such reports include (1) a quarterly report listing the NYSE internal file number for the case, (2) SEC file number, (3) the name of the individual or member organization, (4) the nature of the violation, (5) the specific rule provision violated, (6) the date of violation, (7) the fine imposed, (8) an indication of whether the fine is joint and several, (9) the number of times the violation has occurred, and (10) the date of disposition.[4]

Notice of the proposed amendment to the plan was given by the issuance of a Commission release (Securities Exchange Act Release No. 24565, June 9, 1987), and by publication in the **Federal Register** (52 FR 23119, June 17, 1987). No comments were received with respect to the proposed amendment.[5]

The Commission finds that the proposed amendment to the minor disciplinary rule plan is consistent with the requirements of sections 6 and 19 of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19d-1(c)(2) under the Act, that the proposed plan amendment be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

Dated: June 28, 1988.

[FR Doc. 88-15074 Filed 7-5-88; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828. The Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow self-regulatory organizations ("SROs") to submit, for Commission approval, plans for the abbreviated reporting of minor disciplinary infractions. Under the amendments, any disciplinary action taken by an SRO for violation of an SRO rule that has been designated a minor rule pursuant to the plan shall not be considered "final" for purposes of section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted the available administrative remedies.

[2] *See* NYSE Rule 476A ("Imposition of Fines for Minor Violations of Rules"); Securities Exchange Act Release No. 21668 (January 25, 1985) 50 FR 5025 (approving NYSE Rule 476A).

[3] NYSE Rule 342.20 requires a member or member organization to comply with any request by the Exchange for "detailed information regarding trades" effected in NYSE listed stocks or related financial instruments by the date required by the Exchange. NYSE Rule 476(a)(11) makes the failure to respond in a timely manner actionable pursuant to NYSE disciplinary procedures. *See* Securities Exchange Act Release No. 25763 (May 27, 1987), 53 FR 20925 (approving NYSE Rule 342.20 and amendments to NYSE Rule 476(a)(11)).

[4] The fine schedule under Rule 476A is as follows: (1) First offense, a fine of $500 for an individual and $1,000 for a member organization; (2) second offense, a fine of $1,000 for an individual and $2,500 for a member organization; and (3) subsequent fines, a fine of $2,500 for an individual and $5,000 for a member organization. Fines in excess of $2,500 are not covered by the minor disciplinary rule plan.

[5] In connection with the NYSE's proposal to amend Rules 342.20 and 476(a)(11), the Commission received comments critiquing the proposed amendments. These comments, which were addressed in the Commission's order approving the substantive rule changes issued pursuant to Exchange Act Rule 19b-4, do not relate to the reporting plan that is the subject of this approval order issued pursuant to Exchange Act Rule 19d-1. *See* Securities Exchange Act Release No. 25763 (May 27, 1987), 53 FR 20925 (approving NYSE Rule 342.20 and amendments to NYSE Rule 476(a)(11)).

[6] *See* 17 CFR 200.30-3(a)(44).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

June 29, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Black Hills Corporation
Common Stock, $1.00 Par Value (File No. 7-3581)

Premier Industrial Corporation
Common Stock, $1.00 Par Value (File No. 7-3582)

British Gas PLC
Final Installment American Depositary Receipts (File No. 7-3583)

First Fidelity Bancorporation (New) (File No. 7-3584)

NIPSCO Industries, Inc.
Common Stock, No Par Value (File No. 7-3585)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 21, 1988, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearings, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions fo unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-15077 Filed 7-5-88; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Advisory Committee for Trade Negotiations Services Policy Advisory Committee; Meetings and Determination of Closing of Meetings

The meetings of the Advisory Committee for Trade Negotiations to be held July 7, 1988 from 1:30 p.m. to 4:00 p.m., in Washington, DC, and the Services Policy Advisory Committee to be held July 11-12, 1988, in Geneva, Switzerland, will include the development, review and discussion of current issues which influence the trade policy of the United States. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, I have determined that these meetings will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

More detailed information can be obtained by contacting Barbara North, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, DC 20506.

Clayton Yeutter,

United States Trade Representative.

[FR Doc. 88-15078 Filed 7-5-88; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD1 88-049]

New York Harbor Traffic Management Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 USC App. I), notice is hereby given of a meeting of the New York Harbor Traffic Management Advisory Committee to be held on July 28, 1988, in the Conference Room, second floor, U.S. Coast Guard Marine Inspection Office, Battery Park, New York, New York, beginning at 10:00 a.m.

The agenda for this meeting of the New York Harbor Traffic Management Advisory Committee is as follows:

1. Introductions.
2. Feedback on Group New York's Anchorage Management performance and the monitoring of channel 13 VHF-FM.
3. Update Kill Van Kull/Newark Bay Dredging Project.
4. Status of the NY Harbor Traffic Management Advisory Committee.
5. Bridge Administration Status Report—Transfer of duties to USACE and safety issues of bridge repairs.
6. Topics from the floor.
7. Review of agenda topics and selection of date for next meeting.

The New York Harbor Traffic Management Advisory Committee has been established by Commander, First Coast Guard District to provide information, consultation, and advice with regard to port development, maritime trade, port traffic, and other maritime interests in the harbor. Members of the Committee serve voluntarily without compensation from the Federal Government.

Attendance is open to the interested public. With advance notice to the Chairperson, members of the public may make oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander L. Brooks, USCG, Executive Secretary, NY Harbor Traffic Management Advisory Committee, Port Safety Office, Building 109, Governors Island, New York, NY 10004; or by calling (212) 668-7834.

Dated: June 27, 1988.

R.I. Rybacki,

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

[FR Doc. 88-15072 Filed 7-5-88; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

Denial of Petitions for Defect and Noncompliance Investigations

On June 1, 1987, the Center for Auto Safety (CFAS) petitioned the National Highway Traffic Safety Administration (NHTSA) for the commencement of an investigation to determine whether school buses manufactured by the Thomas Built Bus Company contain a defect that relates to motor vehicle safety because of an alleged tendency for these buses' floor joints to separate in crashes. CFAS also petitioned at the same time for an investigation to determine whether the same buses fail to conform to the requirements of Federal Motor Vehicle Safety Standard 221, 49 CFR 571.221, School Bus Body Panel Joint Strength. On November 3, 1987, NHTSA denied the CFAS petitions

to conduct both investigations. On December 4, 1987, CFAS filed petitions to reconsider the denial of both earlier petitions. The petitions for reconsideration provided no significant new information about the Thomas school buses in question but expressed some new arguments, primarily concerning the intent of Congress in enacting the school bus amendments to the Safety Act in 1974. The agency now denies these petitions for reconsideration.

While the CFAS petitions for reconsideration contain no significant new information, NHTSA's Office of Defects Investigation (ODI) has continued its review of possibly relevant crash data involving school buses. An analysis of this information, including some cases that were not discussed in the petition denials of November 3, 1987, is therefore part of the basis for this petition denial. A memorandum setting out this analysis is being placed in the agency's public file.

The ODI analysis of available school bus crash data indicates that crashes which have generated catastrophic forces due to the size and speed of the vehicles and objects involved may have resulted in floor joint separation or tearing of floor panels in buses made by other manufacturers as well as in Thomas buses and that Thomas buses have also withstood such crashes without floor joint separation in a number of instances. Fortunately, it also appears that such catastrophic crashes involving school buses have been rare events. Because of this, their small number prevents meaningful statistical analysis. The ODI review encompassed 66 potentially catastrophic crashes, 20 of which involved Thomas buses. Floor separation occurred in five of these 20 crashes and may have occurred in at least two involving buses made by other manufacturers.

One of the observations set out in the ODI analysis is that, "To say that one bus of one manufacturer would survive a particular crash in better condition than another is difficult, if not impossible, due to the truly unique circumstances of each and every accident." ODI's report concludes:

> Analysis of this issue provides no evidence of a safety-related defect * * *. Although floor separation may have contributed to the injury risk in these accidents, there is no pattern of evidence that would warrant further commitment of resources to determine whether such separations might occur in other less catastrophic events.

While ODI's discussion was focused specifically on the defect petition, the conclusion is equally valid with respect to the petition for a noncompliance investigation. The absence of evidence of floor separation in noncatastrophic crashes supports the agency's exercise of discretion to close its investigations of possible floor joint noncompliances with Federal Motor Vehicle Safety Standard 221, *School Bus Body Panel Joint Strength* in light of the apparent ambiguities in the Standard.

Both new petitions contain arguments that Congress intended the agency to ensure that school buses would be able to withstand catastrophic crashes such as those relied upon by CFAS in its petitions and reviewed by ODI. For the reasons set out below, the agency disagrees with this interpretation of the intent of Congress. However, even if this were a correct interpretation, it would not support the likelihood of finding a safety related defect or noncompliance based on the facts before the agency regarding Thomas buses. If Congress intended a level of crash protection to include such catastrophic crashes as high speed collisions with freight trains and heavy trucks, this would support an argument for standards of crashworthiness far exceeding the joint strength requirements of Standard No. 221, and the only way to accomplish this would be by initiating new rulemaking. Such a Congressional purpose would be difficult, if not impossible, to accomplish by enforcement of the defect notification and remedy provisions of the Act which ordinarily depend on evidence of significant numbers of failures in one kind of vehicle when compared to other vehicles.

We do not agree with the petitioners' interpretation of the 1974 amendment to the Safety Act that related to school bus safety. This amendment which appeared as Title II of the Motor Vehicle and Schoolbus Amendments of 1974, added a new subsection to section 103 of the Safety Act, 15 U.S.C. 1394(i), which directed NHTSA to adopt new Federal motor vehicle safety standards for school bus safety, specifying the aspects of performance to be covered, which included floor strength and crashworthiness of body and frame. Other than the references to these aspects of performance, the 1974 amendments contained no express statement of the substance of the standards to be adopted. Therefore, in the words of the amendment itself, Congress did not specify a level of severity of accidents against which the new standards should protect. However, by placing the amendment regarding new standards in section 103, 15 U.S.C. 1394, the section which contains the general safety standard setting authority of the agency, Congress made clear its intent that the new Federal motor vehicle safety standards for school buses must conform to the requirements of subsections 103(a) and (f)(3), 15 U.S.C. 1394(a) and (f)(3) that provide that:

> Each such Federal motor vehicle safety standard shall be practicable, shall meet the need for motor vehicle safety, and shall be stated in objective terms.

and that:

> In prescribing standards under this section, the Secretary shall * * * consider whether any such proposed standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed.

If the existing standards applying to schoolbuses were interpreted as requiring school bus construction to withstand such catastrophic crash forces as have been reviewed here, this interpretation would place the standards at variance with the requirements of practicability and reasonableness found in these provisions of section 103. It is not apparent to the agency how school buses could be so constructed without prohibitive expense. Similarly, the evident intent of Congress in placing its mandate for school bus standards within the limits of reasonableness and practicability of section 103 is contrary to petitioners' argument that Congress intended the defect provisions of the Safety Act to require the recall of any school buses that sometimes fail to withstand such rare crashes without floor separation.

Petitioners have quoted the House Committee report on the 1974 amendments as well as the comments of Rep. Gilman of New York, a sponsor of the legislation who cited "disintegration" of a school bus in a catastrophic crash with a freight train as an example of the kind of harm to be avoided by the standards to be adopted pursuant to the amendments. The Committee said in part, "Ideally, there should be no death and injury statistics for schoolbus transportation."

These quotations of parts of the legislative history are not sufficient to support the interpretation of the amendment advanced by petitioners. The comments of one member of Congress, even a sponsor of a measure that is enacted, do not necessarily express the views of the whole Congress with respect to the interpretation of the measure. While the Committee Report may be more authoritative, the Committee's expression of an "ideal" of perfectly safe school bus transportation is not a basis for interpreting its mandate to the agency regarding the specific level of protection to be incorporated in the standards. However,

the Committee did make a more specific statement that is more useful in deciding the question of whether protection against the most catastrophic crashes was intended to flow from the amendment. The Committee said in the concluding paragraph of the same report cited by petitioners:

> It is not the intent of this title to mandate the development of schoolbus safety standards which would result in severe cost increases for schoolbus manufacturers and eventually for school communities.

The agency concludes that it is unlikely that protection against any damage such as floor separation in the most catastrophic crashes could be accomplished without severe cost increases. This is evident from the apparent facts that some floor separations have apparently occurred in catastrophic crashes involving the schoolbuses of more than one manufacturer, and that the crash forces generated by large objects such as heavy trucks and trains moving at high speed are difficult to manage without such damage.

It is the agency's opinion, therefore, that Congress did not intend by the 1974 amendments to the Safety Act that the Federal motor vehicle safety standards that would be adopted pursuant to the amendments should necessarily prevent floor separation in all catastrophic crashes, or that the definition of defect should be interpreted so as to make any school bus having a floor separation in such a crash subject to recall as defective.

The petitions to reconsider the earlier denials of petitions to open defect and noncompliance investigations have not presented new evidence. The arguments now advanced do not present a basis for changing the agency's earlier assessment that there is no reasonable possibility that the agency would order notification and remedy at the end of the proposed investigations. The agency continues to believe that the proposed investigations would require commitment of resources that would not be warranted by the very remote chance that such investigations would produce evidence of a defect or actionable noncompliance. The petitions are denied.

Authority: 15 U.S.C. 1410(a); 49 CFR Part 552.

Issued on June 30, 1988.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 88-15105 Filed 7-5-88; 8:45 am]

BILLING CODE 4910-50-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 129
Wednesday, July 6, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., July 8, 1988.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule enforcement review, Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 88–15238 Filed 7–1–88; 3:42 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, July 26, 1988.

PLACE: 2033 K St., NW., Washington, DC, 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Application of the Chicago Board of Trade for designation as a contract market in 30-day Interest Rate futures contract.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 88–15239 Filed 7–1–88; 3:42 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, July 26, 1988.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 88–15240 Filed 7–1–88; 3:42 pm]
BILLING CODE 6351–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:04 a.m. on Thursday, June 30, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the application of First Wyoming Bank—East Cheyenne, Cheyenne, Wyoming, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in VFW Federal Credit Union, Cheyenne, Wyoming, a non-FDIC-insured institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: June 30, 1988.
Federal Deposit Insurance Corporation.
Robert E. Feldman,
Deputy Executive Secretary.
[FR Doc. 88–15235 Filed 7–1–88; 3:39 p.m.]
BILLING CODE 6714–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Friday, July 8, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed 1989 Federal Reserve Bank budget objective.

2. Any items carried forward from a previously announced meeting.

NOTE.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Date: July 1, 1988.
William W. Wiles,
Secretary of the Board.
[FR Doc. 88–15194 Filed 7–1–88; 11:15 am]
BILLING CODE 6210–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:30 a.m., Friday, July 8, 1988, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: July 1, 1988.
William W. Wiles,
Secretary of the Board.
[FR Doc. 88–15195 Filed 7–1–88; 11:15 am]
BILLING CODE 6210–01–M

AGENCY: Nuclear Regulatory Commission.

DATE: Weeks of July 4, 11, 18, and 25, 1988.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of July 4

Tuesday, July 5

2:00 p.m.
Briefing on Accountability of Radioactive Material Used by Material Licensees (Public Meeting).

Wednesday, July 6

10:00 a.m.
Briefing on EEO Program (Public Meeting).

Thursday, July 7

2:00 p.m.
Briefing on Continuity of Government Handbook (Closed—Ex. 1).
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed).

Week of July 11—Tentative

Tuesday, July 12

10:00 a.m.
Annual Briefing by INPO (Public Meeting).
2:00 p.m.
Briefing on Policy Paper for Plant Life Extension (Public Meeting).

Wednesday, July 13

1:00 p.m.
Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting).
10:00 p.m.
Briefing on Final Rule on 10 CFR Part 50.46—ECCS Acceptance Criteria (Appendix K) (Public Meeting).
2:00 p.m.
Periodic Briefing by the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting).
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed).

Friday, July 15

10:00 a.m.
Briefing on Matters of Common Interest Between NRC and EPA in the Regulation of Radiological Hazards (Public Meeting).

Week of July 18—Tentative

Thursday, July 21

10:00 a.m.
Briefing on Current Status of Nuclear Materials Transportation (Public Meeting).
2:00 p.m.
Briefing on Individual Plant Examinations Generic Letter (Public Meeting).
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed).

Friday, July 22

10:00 a.m.
Briefing on Interim Report on BWR Mark I Containment Issues (Public Meeting).

Week of July 25—Tentative

No Commission meetings scheduled for Week of July 25.

ADDITIONAL INFORMATION: Affirmation of "ALAB–891: Remanding Coaxial Cable Issue" (Public Meeting) was held on June 29.

NOTE.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission to vote on this date.

To verify the status of meetings call (Recording)—(301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

William M. Hill, Jr.,

Office of the Secretary.

June 30, 1988.

[FR Doc. 88–15241 Filed 7–1–88; 3:43 pm]

BILLING CODE 7590–01–M

Corrections

Federal Register
Vol. 53, No. 129
Wednesday, July 6, 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 COMMERCE

National Oceanic and Atmospheric Administration

Pacific Coast Groundfish Fishery

Correction

In notice document 88-13957 beginning on page 23436 in the issue of Wednesday, June 22, 1988, make the following correction:

On page 23437, in the first column, in the second complete paragraph, "(5) *Gear*" should read "(5) *Place*".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-030-07-4212-12]

Realty Action, Exchange of Public Lands in Bingham County, ID

Correction

In notice document 88-13885 beginning on page 23314 in the issue of Tuesday, June 21, 1988, make the following corrections:

1. On page 23314, in the first column, under T 1 S., R. 33 E., B.M., in Sec. 5 "N½SE¼" should read "N½SW¼"; and in the second column, in Sec. 10, in the second line "S½NW¼," should read "S½NW¼".

2. On the same page, in the third column, the 14th line should read "T. 1 N., R. 35 E., B.M.,".

3. In the same column, the 16th line should read "T. 1 S., R. 35 E., B.M.,".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-AGL-10]

Proposed Establishment of Transition Area; Kenosha, WI

Correction

In proposed rule document 88-13867 appearing on page 23257 in the issue of Tuesday, June 21, 1988, make the following corrections:

1. In the first column, under **SUMMARY**, in the ninth line, after "procedures" insert "in".

2. In the same column, under **FOR FURTHER INFORMATION CONTACT**, in the third line, after "East" insert "Devon".

BILLING CODE 1505-01-D

federal register

Wednesday
July 6, 1988

Part II

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for March 1988

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53104; FRL-3393-9]

Premanufacture Notices; Monthly Status Report for March 1988

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption requests pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for March 1988.

Nonconfidential portions of the PMNs and exemption requests may be seen in the Public Reading Room NE-G004 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "(OPTS-53104)" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M Street SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during March; (b) PMNs received previously and still under review at the end of March; (c) PMNs for which the notice review period has ended during March; (d) chemical substances for which EPA has received a notice of commencement to manufacture during March; and (e) PMNs for which the review period has been suspended. Therefore, the March 1988 PMN Status Report is being published.

Publication of the monthly status reports for PMNs have been delayed due to a computer sorting error, which has been corrected. A cumulative October 1987 through January 1988 report is currently being prepared, and will be published shortly. This report for March 1988 reflects the correction of the error and reestablishes the monthly sequential publication of the PMN status reports.

Date: June 1, 1988.

Douglas W. Sellers,

Acting Chief, Public Data Branch, Information Management Division, Office of Toxic Substances.

Premanufacture Notice Monthly Status Report, March 1988

I. 244 Premanufacture Notices and Exemption Requests Received During the Month

PMN No.	
P 88-905	P 88-963
P 88-906	P 88-964
P 88-907	P 88-965
P 88-908	P 88-966
P 88-909	P 88-967
P 88-910	P 88-968
P 88-911	P 88-969
P 88-912	P 88-970
P 88-913	P 88-971
P 88-914	P 88-972
P 88-915	P 88-973
P 88-916	P 88-974
P 88-917	P 88-975
P 88-919	P 88-976
P 88-920	P 88-977
P 88-921	P 88-978
P 88-922	P 88-979
P 88-923	P 88-980
P 88-924	P 88-981
P 88-925	P 88-982
P 88-926	P 88-983
P 88-927	P 88-984
P 88-928	P 88-985
P 88-929	P 88-986
P 88-930	P 88-987
P 88-931	P 88-988
P 88-932	P 88-989
P 88-933	P 88-990
P 88-934	P 88-991
P 88-935	P 88-992
P 88-936	P 88-993
P 88-937	P 88-994
P 88-938	P 88-995
P 88-939	P 88-996
P 88-940	P 88-997
P 88-941	P 88-998
P 88-942	P 88-999
P 88-943	P 88-1000
P 88-944	P 88-1001
P 88-945	P 88-1002
P 88-946	P 88-1003
P 88-947	P 88-1004
P 88-948	P 88-1005
P 88-949	P 88-1006
P 88-950	P 88-1007
P 88-951	P 88-1008
P 88-952	P 88-1009
P 88-953	P 88-1010
P 88-954	P 88-1011
P 88-955	P 88-1012
P 88-956	P 88-1013
P 88-957	P 88-1014
P 88-958	P 88-1015
P 88-959	P 88-1016
P 88-960	P 88-1017
P 88-961	P 88-1018
P 88-962	P 88-1019
P 88-1020	P 88-1085
P 88-1021	P 88-1086
P 88-1022	P 88-1087
P 88-1023	P 88-1088
P 88-1024	P 88-1089
P 88-1025	P 88-1090
P 88-1026	P 88-1091
P 88-1027	P 88-1092
P 88-1028	P 88-1093
P 88-1029	P 88-1094
P 88-1030	P 88-1095
P 88-1031	P 88-1096
P 88-1032	P 88-1097
P 88-1033	P 88-1098
P 88-1034	P 88-1099
P 88-1035	P 88-1100
P 88-1036	P 88-1101
P 88-1037	P 88-1102
P 88-1038	P 88-1103
P 88-1039	P 88-1104
P 88-1040	P 88-1105
P 88-1041	P 88-1106
P 88-1042	P 88-1107
P 88-1043	P 88-1108
P 88-1044	P 88-1109
P 88-1045	P 88-1110
P 88-1046	P 88-1111
P 88-1047	P 88-1112
P 88-1048	P 88-1113
P 88-1049	P 88-1114
P 88-1050	P 88-1115
P 88-1051	P 88-1116
P 88-1052	P 88-1117
P 88-1053	P 88-1118
P 88-1054	P 88-1119
P 88-1055	P 88-1120
P 88-1056	P 88-1121
P 88-1057	P 88-1122
P 88-1058	P 88-1123
P 88-1059	P 88-1124
P 88-1060	P 88-1125
P 88-1061	Y 88-0131
P 88-1062	Y 88-0132
P 88-1063	Y 88-0133
P 88-1064	Y 88-0134
P 88-1065	Y 88-0135
P 88-1066	Y 88-0136
P 88-1067	Y 88-0137
P 88-1068	Y 88-0138
P 88-1069	Y 88-0139
P 88-1070	Y 88-0140
P 88-1071	Y 88-0141
P 88-1072	Y 88-0142
P 88-1073	Y 88-0143
P 88-1074	Y 88-0144
P 88-1075	Y 88-0145
P 88-1076	Y 88-0146
P 88-1077	Y 88-0147
P 88-1078	Y 88-0148
P 88-1079	Y 88-0149
P 88-1080	Y 88-0150
P 88-1081	Y 88-0151
P 88-1082	Y 88-0152
P 88-1083	Y 88-0153
P 88-1084	Y 88-0154

II. 272 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	
P 83-669	P 85-0941
P 84-1182	P 86-0065
P 84-1183	P 86-0066
P 85-0067	P 86-0067
P 85-0216	P 86-0092
P 85-0535	P 86-0282
P 85-0536	P 86-0283
P 85-0619	P 86-0294
P 85-0718	P 86-0295
P 85-0901	P 86-0592

P 86-0660
P 86-0662
P 86-1011
P 86-1078
P 86-1189
P 86-1235
P 86-1356
P 86-1440
P 86-1602
P 86-1603
P 86-1604
P 86-1607
P 86-1712
P 87-0057
P 87-0058
P 87-0059
P 87-0068
P 87-0090
P 87-0105
P 87-0197
P 87-0198
P 87-0199
P 87-0200
P 87-0201
P 87-0235
P 87-0318
P 87-0323
P 87-0326
P 87-0547
P 87-0548
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P 87-0635
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P 87-0640
P 87-0641
P 87-0642
P 87-0723
P 87-0736
P 87-0752
P 87-0770
P 87-0790
P 87-0794
P 87-0902
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P 87-0930
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P 87-0963
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P 87-1009
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P 87-1041
P 87-1066
P 87-1104
P 87-1123
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P 87-1155
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P 87-1192
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P 87-1212
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P 87-1306
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P 87-1379
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P 88-0004
P 88-0049
P 88-0059
P 88-0063
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P 88-0275
P 88-0288
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P 88-0311
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Y 88-0138
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Y 88-0140
Y 88-0141
Y 88-0142
Y 88-0143

III. 238 Premanufacture Notices and Exemption Requests for Which the Notice Review Period Has Ended During the Month

[Expiration of the notice review period does not signify that the chemical has been added to the Inventory.]

PMN No.

P 84-1182
P 84-1183
P 85-0941
P 86-0500
P 86-0501
P 86-0502
P 86-0503
P 86-0660
P 86-0662
P 86-1440
P 86-1489
P 87-0068
P 87-0200
P 87-0568
P 87-0569
P 87-0570
P 87-0723
P 87-0826
P 87-0895
P 87-0902
P 87-0903
P 87-0904
P 87-1123
P 87-1218
P 87-1456
P 87-1770
P 87-1877
P 87-1878
P 87-1882
P 88-0063
P 88-0204
P 88-0245
P 88-0267
P 88-0280

IV. 136 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN No.	Identity/generic name	Date of commencement
P 82-0325	G Acrylic resin	Feb. 12, 1988.
P 83-0293	Polymer of acrylonitrile; 1,3-butadiene; and hydrogen	Mar. 17, 1983.
P 83-0414	G Disazo substituted aromatic Compound	Dec. 3, 1985.
P 83-0539	G Substituted aralkylsilanes	Jan. 22, 1988.
P 83-1238	G Substituted anthraquinone	Dec. 6, 1985.
P 84-0360	G Substituted nonylphenol Polymer	May 28, 1985.
P 84-0535	G Alkali metal polycarboxylate	Aug. 28, 1984.
P 84-0587	G Alkyl phosphate salt of polyaminoamide	Feb. 25, 1988.
P 84-0679	G Salt of dialkylphosphorodithioic acid	Feb. 11, 1988.
P 84-0712	G Substituted phenyleneazonaphthalene trisulfonic acid	Mar. 15, 1986.
P 84-1152	G Copper complex of a substituted phenyl azo	Mar. 28, 1985.
P 84-1204	G Substituted, sulfonated naphthylazo, sodium salt	Oct. 29, 1985.
P 85-0054	G Organotungsten compound	Jan. 15, 1988.
P 85-0055	G Substituted sulfonated naphthalene	Oct. 11, 1985.
P 85-0081	*N*-[3-Methyl-5-(phenyl-amine)-2,4-pentadienylidene benzenamine, monohydrobromide salt	Jan. 21, 1988.
P 85-0082	G Tetrasubstituted pyrazole salt	Feb. 5, 1988.
P 85-0942	G Substituted propanamide	Feb. 26, 1988.
P 85-1314	G Substituted copper phthalocyanine	Apr. 3, 1988.
P 85-1344	G Alkali metal salt of substituted sulfo aryl transition metal complex	May 15, 1986.
P 85-1345	G Polysubstituted sulfo aryl transition metal complex	Nov. 12, 1985.
P 86-0104	1-(3'-Chloro-5'-(*p*-ethyl sulfonyl sulfuric ester, sodium salt; phenylamino)-5-triazinylamino)-5-(2''naphthylazo-1'',5''-disulfonic acid, disodium salt)-6-hydroxy-4-naphthalene-sulfonic acid, sodium salt.	Feb. 10, 1988.
P 86-0191	G Alkyl phosphate salt of an acylated polyamine	Mar. 10, 1988.
P 86-0192	G Alkyl phosphate salt of an acylated polyamine	Mar 10, 1988.
P 86-0195	G Quarternary ammonium salt of siloxane and amidine	Feb. 20, 1986.
P 86-0223	G Thioether	Feb. 26, 1988.
P 86-0256	G Substituted heterocycle azonaphthalenesulfonic acid, salt	Feb. 22, 1988.
P 86-0591	G Ionomer polymer (ethylene-Methacrylic acid copolymer in salt form)	Jan. 9, 1987.
P 86-0689	G A Maleic modified rosin ester, amino alcohol salt	Feb. 10, 1988.
P 86-0942	G Copolymer of methacrylic and acrylic esters	Sept. 8, 1986.
P 86-1089	G Potassium alkenyl succinate	Dec. 16, 1986.
P 86-1159	G Substituted imidazole	Jan. 6, 1987.
P 86-1246	G Carbinol functional silicone fluid	Feb. 25, 1986.
P 86-1257	G Hydroxy functional acrylic methacrylate polymer	Feb. 10, 1988.
P 86-1357	G (Alkylaryl heterocycle) alkenyl substituted quinolinium salt with trifluoromethanesulfonic acid	Oct. 13, 1987.
P 86-1359	G Alkyl and acyl substituted quinoline	Mar. 18, 1987.
P 86-1360	G Dialkyl quinoline	June 15, 1987.
P 86-1361	G Di(Alkylaryl) substituted Cyclopropene	June 3, 1987.
P 86-1362	G Alkylarylindiol, alkyl and oxo-substituted dioxane	Aug. 10, 1987
P 86-1363	G Dialkyl quinolinium methyl sulfate	June 4, 1988.
P 86-1641	G Castor oil ester	Dec. 30, 1987
P 86-1740	G Mixed arylamides from reaction of arylaminoindenamine with an aryl acid chloride, an alkoxy substituted aryl acid chloride and a monobrominated.	July 6, 1987.
P 87-0002	G Substituted polyester of neophentyl glycol	Feb. 10, 1988.
P 87-0006	G Substituted acrylated methacrylate polymer with stylenre	Do.
P 87-0007	G Styrenated acrylic metha-crylic polymer	Do.
P 87-0008	G Styrenated substituted acrylic methacrylate polymer	Do.
P 87-0009	G Complex polyester with neoentyl glycol	Do.
P 87-0011	G Acrylic methacrylic polymer	Do.
P 87-0041	G Substituted Heteromono-cyclyl carbomonocyclic thiobenzindol	Feb. 17, 1987
P 87-0082	G Polymer from reaction including phenol and diethylenetriamine	Feb. 3, 1988.
P 87-0094	G Alkylene diol alkyl ether ester	July 27, 1987
P 87-0111	G Nitrogen heterocycle derivative	Feb. 10, 1988.
P 87-0139	G Reaction product of aryl and alkyl dicarboxylics/alkane polyols/ ester polyester with an acrylic prepolymer	Feb. 25, 1988.
P 87-0246	G Poly(vinyl ester counsat urated dicarboxylic acid ester, co-olefin co-acrylate	Feb. 22, 1988.
P 87-0257	G Polyesterimide resin	Feb. 10, 1988.
P 87-0421	G Hydrofunctional acrylate methacrylate	Do.
P 87-0458	G Alkane acid, ester	Feb. 20, 1988.
P 87-0459	G Hydrogenated condensate of alkane and 2-methoxyphenol	Do.
P 87-0502	G Dialkenylamide	Jan. 26, 1988.
P 87-0572		Dec. 18, 1987
P 87-0667	Sodium sulfate, sodium bisulfate	Jan. 15, 1988.
P 87-0706	G Monosubstituted aryl fatty acid ester	Mar. 4, 1988.
P 87-0739	G Styrenated hydroxy-functional methacrylic acrylic polymer	Feb. 10, 1988.
P 87-0758	G Polyoxyethylene fatty esters	Feb. 4, 1988.
P 87-0819	G Amino functional polysiloxane	Mar. 6, 1988.
P 87-0837	G Silicone modified polyester	Feb. 16, 1988.
P 87-0841		Sept. 8, 1987
P 87-0908	Sodium chloride, water, isopropanol	Mar. 16, 1988.
P 87-0913	G Titanium (dialkanolamine) oxide	Mar. 4, 1988.
P 87-0934	G Styrene/butadiene copolymer	Feb. 4, 1988.
P 87-0940	G Sulfide antioxidant synergist	Mar. 1, 1988
P 87-0992	G Monosubstituted phenyl azonaphthalenesulfonic acid, salt	Jan. 26, 1988.
P 87-0995	G Monosubstituted phenyl azo disubstituted naphthalenesulfonic acid, alkylamine salt	Feb.7, 1988.

IV. 136 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture—Continued

PMN No.	Identity/generic name	Date of commencement
P 87-1019	G Modified polyurethane polyacrylate	Feb. 10, 1988.
P 87-1021	G Styrenated methacrylate polymer	Do.
P 87-1024	G Hydroxy functional acrylate methyacrylate	Do.
P 87-1052	G Styrenated methacrylate	Do.
P 87-1111	G Disubstituted quinacridone	Do.
P 87-1132	G Cashew nutshell liquid polymer with formaldehyde polyamide	Mar. 15, 1988.
P 87-1135	Acetic acid, water	Mar. 3, 1988.
P 87-1173	Isopropylmorpholine	Mar. 7, 1988.
P 87-1237	1,2-Dimethylsilazane (1-methylsilazane) copolymer	Feb. 18, 1988.
P 87-1438	G Dodecylphenol-formal-dehyde-polyamine resin	Mar. 8, 1988.
P 87-1497	G Mono substituted aryl resin	Feb. 24, 1988.
P 87-1508	Alkyd polymer	Dec. 28, 1987
P 87-1585	G Styrene acrylic copolymer	Feb. 9, 1988.
P 87-1637	Chloroethane-2-propenoic acid monoester with 1,2-propandiol-2-butenedioic acid polymer	Feb. 20, 1988.
P 87-1693	G Polyester resin	Feb. 11, 1988.
P 87-1781	G Styrene-N-butylacrylate copolymer	Feb. 17, 1988.
P 87-1799	G Modified trioxane copolymer	Feb. 25, 1988.
P 87-1834	G Acrylic copolymer resin	Mar. 11, 1988.
P 87-1840	G Alkoxylated amine alcohol	Dec. 20, 1987
P 87-1842	Dimethyl terephthalene; ethylene glycol; neopentyl glycol; isophthalic acid; adipic Acid	Feb. 22, 1988.
P 87-1868	G Chloroalkylchlorosilane	Mar. 14, 1988.
P 87-1869	G Aminoalkylsilane	Do.
P 87-1883	G Modified acrylic copolymer	Feb. 19, 1988.
P 87-1887	G Modified acrylic copolymer	Feb 5, 1988.
P 87-1901	G Methoxy-methacrylate siloxane	Mar. 14, 1988.
P 87-1902	G Organofunctional polysiloxane	Do.
P 87-1903	G Polydimethylsiloxane	Do.
P 88-0026	G Substituted heteropolycycle alkyl substituted alkyl substituted heteropolycycle, salt	Jan. 26, 1988.
P 88-0028	G Substituted aminophenyl substituted heteropolycycle, salt	Do.
P 88-0029	G Disubstituted heteropolycycle, salt	Mar. 9, 1988.
P 88-0052	G Azomethine dye derivative	Feb. 19, 1988.
P 88-0053	G Indophenol derivative	Do.
P 88-0054	G Azomethine dye	Do.
P 88-0057	Maleic anhydride; maleimide of amino propyltriethoxysilane	Feb. 11, 1988.
P 88-0060	G Fiber-reactive dye	Jan. 29, 1988.
P 88-0078	G Styrene, butadiene, polymer with alkanedioic acid and aAlkane ester	Feb. 2, 1988.
P 88-0097	G Aliphatic ester	Do.
P 88-0099	Adipic acid; 1,4-butane-diol; neopentyl glycol; dibromoeopentyl glycol; tetrabutyl titanate	Jan. 14, 1988.
P 88-0104	Adipic acid; polyethylene terephthalate; dipropylene glycol pentaerythritol tetrabutyl titanate	Jan. 17, 1988.
P 88-0105	Adipic acid; triethylene glycol; tetraethylene glycol tetrabutyl titanate	Do.
P 88-0106	G Alkyd resin intermediate	Do.
P 88-0107	G Copolymer alkyd resin	Do.
P 88-0131	G Salt of polyhydroxystyrene with tertiary aromatic amine	Feb. 9, 1988.
P 88-0145	G Inolphenol derivative	Feb. 19, 1988.
P 88-0153	G Aromatic phosphinate	Feb. 1, 1988.
P 88-0169	G Calcium and strontium salt of azo dye	Mar. 9, 1988.
P 88-0170	G Calcium and strontium salt of azo dye	Do.
P 88-0185	G Carbamic acid ester	Do.
P 88-0197	G Indophenol derivative	Feb. 19, 1988.
P 88-0208	G Substituted aryl aliphatic amine	Feb. 24, 1988.
P 88-0224	G Unsaturated polyester polymer	Feb. 10, 1988.
P 88-0228	G Hydrocarbon, steam-cracked aromatic C5–C12 cycloalkadiene fractions polymer with heteromonocyclic-substituted alkylbenzene.	Mar. 6, 1988.
P 88-0229	G Alkaline metal carboxylate	Feb. 24, 1988.
P 88-0232	Adipic acid; terephthalic acid; 1,4-butanediol; neopentyl glycol; tetrabutyl titanate	Feb. 11, 1988.
P 88-0233	Adipic acid; polyethylene terephthalate; 1,4-butanediol; neopentyl glycol tetrabutyl titanatee	Do.
P 88-0259	G Acrylated polyurethane	Mar. 12, 1988.
P 88-0274	G Polymeric ricinolic acid ester	Mar. 5, 1988.
P 88-0277	G Reaction product of aluminum isopropoxide, ethyl acetotacetate, and isobutyl alcohol	Feb. 22, 1988.
P 88-0293	G Polyether polyol	Feb. 23, 1988.
P 88-0295	G Water reducible copolymer alkyd	Feb. 22, 1988.
P 88-0306	Dodecenesulfonic acid, sodium salts hydroxydodecane sulfonic acid, sodium salts	Feb. 26, 1988.
Y 87-0223	G Alkyd resin	Sept. 14, 1987
Y 88-0056	G Acrylic resin solution	Jan. 30, 1988.
Y 88-0058	G Norbornene copolymer	Feb. 17, 1988.

V. 28. Premanufacture Notices for Which the Period Has Been Suspended

PMN No.

P 86-0092
P 87-1417
P 87-1872
P 88-0134
P 88-0138
P 88-0187
P 88-0353
P 88-0387
P 88-0388
P 88-0393
P 88-0436
P 88-0465
P 88-0468
P 88-0525
P 88-0601
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P 88-0828
P 88-0883
P 88-0910
P 88-0965
Y 88-0124
Y 88-0128
Y 88-0144

[FR Doc. 88-12887 Filed 7-5-88; 8:45 am]

BILLING CODE 6560-50-M

federal register

Wednesday
July 6, 1988

Part III

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for April 1988

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53105; FRL-3403-4]

Premanufacture Notices; Monthly Status Report for April 1988

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption requests pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for April 1988.

Nonconfidential portion of the PMNs and exemption requests may be seen in the Public Reading Room NE-G004 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "(OPTS-53105)" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M Street SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460 (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during April; (b) PMNs received previously and still under review at the end of April; (c) PMNs for which the notice review period has ended during April; (d) chemical substances for which EPA has received a notice of commencement to manufacture during April; and (e) PMNs for which the review period has been suspended. Therefore, the April 1988 PMN Status Report is being published.

Publication of the monthly status reports for PMNs have been delayed due to a computer sorting error, which has been corrected. A cumulative October 1987 through January 1988 report is currently being prepared, and will be published shortly. This report for April 1988 reflects the correction of the error and reestablishes the monthly sequential publication of the PMN status reports.

Date: June 1, 1988.

Douglas W. Sellers,

Acting Chief, Public Data Branch, Information Management Division, Office of Toxic Substances.

Premanufacture Notice Monthly Status Report—April 1988

I. 165 Premanufacture Notices and Exemption Requests Received During the Month

PMN No.	
P 88-1129	P 88-1188
P 88-1130	P 88-1189
P 88-1131	P 88-1190
P 88-1132	P 88-1191
P 88-1133	P 88-1192
P 88-1134	P 88-1193
P 88-1135	P 88-1194
P 88-1136	P 88-1195
P 88-1137	P 88-1196
P 88-1138	P 88-1197
P 88-1139	P 88-1198
P 88-1140	P 88-1199
P 88-1141	P 88-1200
P 88-1142	P 88-1201
P 88-1143	P 88-1202
P 88-1144	P 88-1203
P 88-1145	P 88-1204
P 88-1146	P 88-1205
P 88-1147	P 88-1206
P 88-1148	P 88-1207
P 88-1149	P 88-1208
P 88-1150	P 88-1209
P 88-1151	P 88-1210
P 88-1152	P 88-1211
P 88-1153	P 88-1212
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P 88-1155	P 88-1214
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P 88-1171	P 88-1230
P 88-1172	P 88-1231
P 88-1173	P 88-1232
P 88-1174	P 88-1233
P 88-1175	P 88-1234
P 88-1176	P 88-1235
P 88-1177	P 88-1236
P 88-1178	P 88-1237
P 88-1179	P 88-1238
P 88-1180	P 88-1239
P 88-1181	P 88-1240
P 88-1182	P 88-1241
P 88-1183	P 88-1242
P 88-1184	P 88-1243
P 88-1185	P 88-1244
P 88-1186	P 88-1245
P 88-1187	P 88-1246
P 88-1247	Y 88-0162
P 88-1248	Y 88-0163
P 88-1249	Y 88-0164
P 88-1250	Y 88-0165
P 88-1251	Y 88-0166
P 88-1252	Y 88-0167
P 88-1253	Y 88-0168
P 88-1254	Y 88-0169
P 88-1255	Y 88-0170
P 88-1256	Y 88-0171
P 88-1257	Y 88-0172
P 88-1258	Y 88-0173
P 88-1259	Y 88-0174
P 88-1260	Y 88-0175
P 88-1261	Y 88-0176
P 88-1262	Y 88-0177
P 88-1263	Y 88-0178
P 88-1264	Y 88-0179
P 88-1265	Y 88-0180
P 88-1266	Y 88-0181
P 88-1267	Y 88-0182
Y 88-0159	Y 88-0183
Y 88-0160	Y 88-0184
Y 88-0161	

II. 286 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	
P 83-0669	P 87-0752
P 84-1182	P 87-0770
P 84-1183	P 87-0790
P 85-0216	P 87-0794
P 85-0535	P 87-0930
P 85-0536	P 87-0931
P 85-0619	P 87-0963
P 85-0718	P 87-0971
P 85-0941	P 87-0973
P 86-0065	P 87-1028
P 86-0066	P 87-1041
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P 88-1123
P 88-1125

III. 238 Premanufacture Notices and Exemption Request for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Has Been Added to the Inventory)

PMN No.

P 85-0067
P 85-0216
P 85-0535
P 85-0536
P 85-0941
P 86-0282
P 86-0283
P 86-0660
P 86-0662
P 86-1011
P 86-1081
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P 87-0068
P 87-0090
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Y 88-0164
Y 88-0165

IV. 39 Chemical Substances for Which EPA has Received Notices of Commencement to Manufacture

PMN No.	Identity/Generic name	Date of commencement
P 85-0246	G Tetra-substituted-biphenol	Feb. 27, 1988.
P 85-0930	1,2-Benzenedicarboxylic acid-4-((3aminophenyl)hydroxymethyl) ethyl ester	Mar. 19, 1988.
P 86-0057	G Hydrocarbon resin, hydrogenated	Mar. 21, 1988.
P 86-0134	G Alkyl substituted spiro heterocyclic	Mar. 24, 1986.
P 86-0347	G Polyether	Jun. 24, 1986.
P 87-0112	G Substituted tartaric acids, sodium salts	Aug. 1, 1987.
P 87-0113	G Substituted tartaric acids, sodium salts	Aug. 1, 1987.
P 87-0667	Sodium sulfate, sodium bisulfate	Feb. 18, 1988.
P 87-0705	G Ferrocenium phosphate salt	Apr. 1, 1988.
P 87-0999	G Saturated polyester resin	Mar. 22, 1988.
P 87-1233	G Zirconium Chelate solution	Mar. 23, 1988.
P 87-1265	G 2-Naphthalene carboxamide-n-aryl-3-3-hydroxy-4-aryl hydroxy-4-aryl azo	Mar. 11, 1988.
P 87-1365	G Modified polyacrylic acid, sodium salt	Mar. 16, 1988.
P 87-1809	G Polymer of aromatic diisocyanate, alkanols and alkene diols	Mar. 28, 1988.
P 87-1832	G Calcium salt of butyric acid telomer	Mar. 12, 1988.
P 87-1874	G Bismalinide	Mar. 15, 1988.
P 88-0040	G Fluoro elastomer	Mar. 21, 1988.
P 88-0191	G Nylon salt	Mar. 14, 1988.
P 88-0192	G Polyamide resin	Mar. 16, 1988.
P 88-0193	Dicyclopentadiene, dimerized fatty acids, fumeric acids, resin	Apr. 6, 1988.
P 88-0379	G Aromatic ketone	Apr. 4, 1988.
P 88-0382	G Polymer of aliphatic diols and aromatic carboxylic acids and an aromati epoxy	Mar. 29, 1988.
P 88-0385	G Acryl styrene resin with cross-linking 1,3,5-triazine-2,4,6-triamine, N,N,N,N,N,N-hexakis-methoxymethyl(methyloxymet al)	Mar. 14, 1988.
P 88-0400	G N-(Substituted- imidazolinium chloride)-alkyl stearamide	Mar. 30, 1988.
P 88-0495	G Substituted phenylpolyoxyalkylene	Mar. 29, 1988.
P 88-0496	G Distributed naphthol-azo-carbocyyclepolyoxyalkylene	Mar. 29, 1988.
P 88-0497	G Trisubstituted naphthol-azo-carboxyclepoloxyalkylene	Mar. 29, 1988.
P 88-0498	G Substituted phenylpolyoxyalkylene	Mar. 29, 1988.
P 88-0505	G Hydroxypropyl acrylate, arcylic acid polymer, ammonium salt	Apr. 6, 1988.
Y 86-0105	G Water dispersible alkyd resin	Mar. 15, 1988.
Y 86-0229	G Water dispersible polyester resin	Mar. 16, 1988.
Y 87-0001	G Polyurethane	Nov. 5, 1986.
Y 87-0139	G Tall oil fatty alkyd resin	Mar. 16, 1988.
Y 87-0204	G Polyether block polyamide copolymer	Mar. 16, 1988.
Y 88-0014	G Polymer of Alkeanediols and aromatic carboxylic acids	Mar. 14, 1988.
Y 88-0056	G Acrylic resin solution	Jan. 30, 1988.
Y 88-0058	G Norbornene copolymer	Feb. 17, 1988.
Y 88-0101	G 2-oxepanone, polymer with, glycols and 1,1'-methylenebis(isocyanato benzene)	Mar. 10, 1988.
Y 88-0128	Polyacrylic acid, partial sodium salt; modified polyacrylic acid	Mar. 31, 1988.

V. 28 Premanufacture Notices for Which the Period Has Been Suspended

PMN No.	
P 87-1337	P 88-0649
P 87-1694	P 88-0658
P 88-0187	P 88-0671
P 88-0225	P 88-0701
P 88-0348	P 88-0742
P 88-0515	P 88-0759
P 88-0522	P 88-0770
P 88-0566	P 88-0781
P 88-0568	P 88-0782
P 88-0576	P 88-0875
P 88-0598	P 88-0965
P 88-0602	P 88-1020
P 88-0606	P 88-1035
P 88-0609	Y 88-0161

[FR Doc. 88-14150 Filed 7-5-88; 8:45 am]

BILLING CODE 6560-50-M

federal register

Wednesday
July 6, 1988

Part IV

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for May 1988

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53106; FRL-3405-8]

Premanufacture Notices; Monthly Status Report for May 1988

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption request pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for MAY 1988.

Nonconfidential portions of the PMNs and exemption request may be seen in the Public Reading Room NE-G004 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "(OPTS-53106)" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency Rm. L-100, 401 M Street, SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460 (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during MAY; (b) PMNs received previous and still under review at the end of MAY; (c) PMNs for which the notice review period has ended during MAY; (d) chemical substances for which EPA has received a notice of commencement to manufacture during MAY; and (e) PMNs for which the review period has been suspended. Therefore, the MAY 1988 PMN Status Report is being published.

Date: June 20, 1988.

Steve Newburg-Rinn,

Acting Chief, Public Data Branch, Information Management Division, Office of Toxic Substances.

Premanufacture Notice Monthly Status Report; May 1988

I. 226 Premanufacture Notices and Exemption Requests Received During the Month

PMN No.	
P 88-1268	P 88-1330
P 88-1269	P 88-1331
P 88-1270	P 88-1332
P 88-1271	P 88-1333
P 88-1272	P 88-1334
P 88-1273	P 88-1335
P 88-1274	P 88-1336
P 88-1275	P 88-1337
P 88-1276	P 88-1338
P 88-1277	P 88-1339
P 88-1278	P 88-1340
P 88-1279	P 88-1341
P 88-1280	P 88-1342
P 88-1281	P 88-1343
P 88-1282	P 88-1344
P 88-1283	P 88-1345
P 88-1284	P 88-1346
P 88-1285	P 88-1347
P 88-1286	P 88-1348
P 88-1287	P 88-1349
P 88-1288	P 88-1350
P 88-1289	P 88-1351
P 88-1290	P 88-1352
P 88-1291	P 88-1353
P 88-1292	P 88-1354
P 88-1293	P 88-1355
P 88-1294	P 88-1356
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P 88-1296	P 88-1358
P 88-1297	P 88-1359
P 88-1298	P 88-1360
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P 88-1300	P 88-1362
P 88-1301	P 88-1363
P 88-1302	P 88-1364
P 88-1303	P 88-1365
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P 88-1305	P 88-1367
P 88-1306	P 88-1368
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P 88-1309	P 88-1371
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P 88-1432	Y 88-0187
P 88-1433	Y 88-0188
P 88-1434	Y 88-0189
P 88-1435	Y 88-0190
P 88-1436	Y 88-0191
P 88-1437	Y 88-0192
P 88-1438	Y 88-0193
P 88-1439	Y 88-0194
P 88-1440	Y 88-0196
P 88-1441	Y 88-0197
P 88-1442	Y 88-0198

II. 287 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	
P 83-0669	P 87-0057
P 84-1182	P 87-0058
P 84-1183	P 87-0059
P 85-0216	P 87-0068
P 85-0535	P 87-0105
P 85-0536	P 87-0197
P 85-0619	P 87-0198
P 85-0718	P 87-0199
P 85-0941	P 87-0200
P 86-0065	P 87-0201
P 86-0066	P 87-0318
P 86-0067	P 87-0323
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Y 88-0178
Y 88-0195

III. 256 Premanufacture Notices and Exemption Request for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Has Been Added to the Inventory).

PMN No.

P 85-0216
P 85-0535
P 85-0536
P 85-0941
P 86-1607
P 87-0790
P 87-1123
P 87-1306
P 87-1456
P 87-1657
P 88-0059
P 88-0063
P 88-0132
P 88-0181
P 88-0187
P 88-0217
P 88-0270
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Y 88-0183
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Y 88-0189
Y 88-0190
Y 88-0195

IV. 35 Chemical Substances For Which EPA Has Received Notices Of Commencement To Manufacture

PMN No.	Identity/generic name	Date of commencement
P 81-0317	G Copolymer of an unsaturated amide with quaternary ammonium derivative of an unsaturated amide	Dec. 16, 1981.
P 86-0134	G Alkyl substituted spiro heterocyclic.	Mar. 24, 1986.
P 86-0256	G Substituted heterocycle azo naphthalenesulfonic acid, salt	Feb. 22, 1988.
P 86-0536	G Substituted phenylpyrazolone.	Mar.24, 1988.
P 87-0138	G Reaction product of alkyl and aryl discarboxylics/alkane diols ester polyester with an acrylate prepolymer	Mar. 31, 1988.
P 87-0428	G Polyester.	Apr. 28, 1987.
P 87-0526	G Substituted aminophenol.	Apr. 6, 1988.
P 87-0560	G Blocked polyisocyanate.	Apr. 14, 1988.
P 87-0614	G Polyester resin of aryl dicarboxylic acids, alkane diols, and dimeric fatty acids	Apr. 5, 1988.
P 87-0765	G Barium salt of joncryl 678.	Mar. 16, 1988.
P 87-1087	G Mercaptide of copolymer of styrene and divinylbenzene.	Mar. 21, 1988.
P 87-1218	G Unsaturated etherified melamine-formaldehyde resin.	Mar. 29, 1988.
P 87-1303	G Benzenamine, n-(substituted phenyl)-2,4-dimethyl-	Mar. 24, 1988.
P 87-1381	G Extract of a naturally occurring microorganism	Mar. 10, 1988.
P 87-1447	Stearic acid—ester with 2.2'2'' nitrilotris ethanol.	Mar. 1, 1988.
P 87-1570	G Blocked aliphatic urethane.	Mar. 18, 1988.
P 87-1614	G Epoxy-amine adduct.	Apr. 12, 1988.
P 87-1654	G Blocked aliphatic urethane.	Mar. 18, 1988.
P 87-1817	G Aromatic anhydride.	Apr. 8, 1988.
P 88-0324	G Arylarylsulfonate, metal salt	Mar. 21, 1988.
P 88-0325	G Polyamide resin.	Apr. 5, 1988.
P 88-0331	G Carboxylic acid modified hydrocarbon resin	Mar. 25, 1988.
P 88-0375	G Amine-modified polyalkylene glycol polymer.	Apr. 5, 1988.
P 88-0380	G Polyether ketone.	Apr. 13, 1988.
P 88-0385	G Acryl styrene resin with cross-linking 1,3,5-triazine-2,4,6-triamine, n,n,n,n,n,n-hexakis-methoxymethyl(methyloxymetyl)	Mar. 13, 1988.
P 88-0444	G Precious metal plating solution.	Mar. 21, 1988.
P 88-0445	G Precious metal plating solution.	Mar. 21, 1988.
P 88-0487	G Doc-chloride	Apr. 11, 1988.
P 88-0495	G Substituted phenylpolyoxyalkylene.	Mar. 29, 1988.
P 88-0496	G Disubstituted naphthol-azo-carbocyclepolyoxyalkylene.	Mar. 29, 1988.
P 88-0497	G Trisubstituted naphthol-azo-carboxyclepoloxyalkylene.	Mar. 29, 1988.
P 88-0498	G Substituted phenylpolyoxyalkylene.	Mar. 29, 1988.
P 88-0548	G Water-reducible styrenated alkyd resin.	Apr. 11, 1988.
P 88-0588	G Acrylic copolymer emulsion.	Apr. 19, 1988.
Y 86-0105	G Water-dispersible alkyd. resin.	Mar. 15, 1988.

V. 38 Premanufacture Notices For Which the Period Has Been Suspended

PMN No.	
P 87-1379	P 88-0875
P 88-0156	P 88-0879
P 88-0157	P 88-0888
P 88-0348	P 88-0889
P 88-0395	P 88-0890
P 88-0436	P 88-0894
P 88-0567	P 88-0898
P 88-0622	P 88-0900
P 88-0712	P 88-0914
P 88-0713	P 88-0918
P 88-0720	P 88-0932
P 88-0811	P 88-0939
P 88-0813	P 88-1005
P 88-0831	P 88-1109
P 88-0836	P 88-1151
P 88-0837	P 88-1323
P 88-0854	Y 88-0177
P 88-0862	Y 88-0178
P 88-0864	Y 88-0188

[FR Doc. 88-14380 Filed 7-5-88; 8:45 am]

BILLING CODE 6560-50-M

Federal Register

Wednesday
July 6, 1988

Part V

Department of the Treasury

31 CFR Part 25

Prepayment of Foreign Military Sales Loans; Final Rule

DEPARTMENT OF THE TREASURY

31 CFR Part 25

Prepayment of Foreign Military Sales Loans Made by the Defense Security Assistance Agency and Foreign Military Sales Loans Made by the Federal Financing Bank and Guaranteed by the Defense Security Assistance Agency

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: Pursuant to its March 21, 1988, issue of an interim rule with a request for comments, the Department of the Treasury is now issuing its final rule. This final rule is being issued pursuant to the requirement contained in Title III, Pub. L. 100-202, 31 U.S.C. 321, Foreign Military Sales Debt Reform (the refinancing legislation). This final rule concerns the prepayment and refinancing of Foreign Military Sales loans made by the Federal Financing Bank and guaranteed by the Defense Security Assistance Agency (DSAA) as well as Foreign Military Sales loans made directly by DSAA. The purpose of the rule is to establish procedures which will allow countries to which Foreign Military Sales loans have been made (Borrowers) to refinance certain existing Foreign Military Sales loans in a manner consistent with the refinancing legislation so as to achieve total lower debt service costs. The interim rule appeared in the **Federal Register** on March 24, 1988, in Volume 53, Number 57, page 9728.

EFFECTIVE DATE: July 6, 1988.

FOR FURTHER INFORMATION CONTACT: Gene Holland, Department of the Treasury, Room 3054, Main Treasury Building, Washington, DC 20220, (202) 566-2468.

SUPPLEMENTARY INFORMATION:

I. Comments

In the interim rule published in the **Federal Register** on March 24, 1988, in Volume 53, Number 57, page 9728, the Treasury Department stated that it would consider comments received from the public during the 30-day comment period defined in the preamble to the rule. This comment period ended April 25. Some comments, while dated April 25, were not delivered to the Treasury Department until after that date. However, the Treasury Department has reviewed and considered all of the comments received, including those that arrived after April 25.

During the comment period, the Treasury Department received fifteen letters of comments on the interim rule from the following commenters:

(1) The firm of Brown & Wood;

(2) The Republic of Honduras, through its embassy in Washington, DC;

(3) The Republic of Turkey, through its Undersecretariat of Treasury and Foreign Trade, General Directorate of Foreign Economic Relations;

(4) The Government of Pakistan, through its embassy in Washington, DC;

(5) J.P. Morgan Securities Inc.;

(6) The firm of Skadden, Arps, Slate, Meagher & Flom on behalf of The First Boston Corporation;

(7) MNC International Bank;

(8) Manufacturers Hanover Trust Company;

(9) Goldman, Sachs & Co.;

(10) The firm of Brown & Wood, on behalf of Citicorp Investment Bank;

(11) The firm of Sidley & Austin, on behalf of Shearson Lehman Hutton Inc.;

(12) The firm of Arnold & Porter, on behalf of the State of Israel;

(13) The firm of Vinson & Elkins on behalf of Salomon Brothers Inc.;

(14) Shearson Lehman Hutton Inc. on behalf of the Arab Republic of Egypt; and

(15) Shearson Lehman Hutton Inc. on behalf of the Kingdom of Morocco.

In addition, after the closing of the comment period, the Treasury Department received letters of comment from the following commenters:

(1) Senators Daniel K. Inouye and Robert W. Kasten, Chairman and Ranking Minority Member, respectively, Subcommittee on Foreign Operations, Senate Committee on Appropriations;

(2) The Riggs National Bank;

(3) The firm of Brown & Wood;

(4) Congressman David R. Obey, Chairman, Subcommittee on Foreign Operations, Export Financing, and Related Programs, House Committee on Appropriations;

(5) Shearson Lehman Hutton, Inc. and Salomon Brothers Inc. on behalf of the Government of Israel; and

(6) Bear, Stearns & Co. Inc., Drexel Burnham Lambert Inc., The First Boston Corporation, Merrill Lynch Capital Markets and Smith Barney, Harris Upham & Co. Inc. on behalf of the Government of Israel.

Many commenters focused on three provisions of the interim rule: The prohibition against separating the guaranteed amount of the refinancing loan from the unguaranteed amount; the prohibition against collateralizing the unguaranteed amount of the refinancing loan with securities backed by the full faith and credit of the United States; and the prepayment application processing period. Beyond these three provisions, there were a number of provisions that received isolated comments.

Some commenters argued that the provision in the refinancing legislation which states that the Treasury Department regulations shall "impose no restriction that increases the cost to borrowers of obtaining private financing for prepayment hereunder or that inhibits the ability of the borrower to enter into prepayment arrangements hereunder" requires the Treasury Department to resolve any statutory ambiguities in favor of the lowest cost result. The Treasury Department believes that, within the constraints imposed by the legislative authority, the interim rule and the following final rule achieve this goal.

Comments and the Treasury Department's response thereto are discussed in the following section-by-section analysis.

II. Section-by-Section Analysis of Comments on the Interim Rule

1. Section 25.100—Definitions

Some comments objected to the lack of a definition for the term "derivative". In response to these comments, the Treasury Department has added a new defined term and definition, titled "Derivative" (§ 25.100(e)). This term is principally used in the section pertaining to registration (§ 25.403) and the revised section pertaining to non-separability (§ 25.404).

One comment objected to the definition of "Eligible FMS Advance" (§ 25.100(f) in the interim rule, renumbered § 25.100(g) in the final rule). Specifically, this commenter believed that this definition precluded the refinancing of any advance bearing interest at a rate of 10 percent or greater that is part of an FFB loan bearing interest at a consolidated rate of less than 10 percent. The commenter stated that it was unclear that separate interest rates continue to exist on FMS advances after a consolidated rate has been established.

Paragraph two of the standard FFB promissory note provides that a consolidated interest rate is established for billing purposes after all funds available under the respective FMS loan agreement have been drawn. However, the respective interest rates continue to apply to individual advances, thus determining their eligibility under the definition. Therefore, the Treasury Department has not altered this definition.

Four comments reflected concern with the definition of "Private Lender" (§ 25.100(p) in the interim rule). This

definition has been renumbered § 25.100(i) and retitled "Eligible Private Lender" in the final rule. One commenter requested that clause (1)(i) should be expanded to include "or any subsidiary or affiliate thereof." The commenter asserted that this addition would allow institutions more flexibility and therefore lower financing costs to the borrower.

While the commenter did not offer any substantive support for this assertion, the Treasury Department has no objection to the comment and has incorporated this comment into the final rule.

Another commenter indicated that the definition described in clause (1)(i) should be expanded to specifically include "investment banking companies."

While the Treasury Department believes that the definition of "Private Lender," as written in the interim rule, effectively covered investment banking companies, the Treasury Department has no objection to modifying this definition to specifically incorporate the comment. Therefore, the definition has been so modified in the final rule.

Another comment on this section concerned the concept of "wholly owned initially" and the relationship of this concept to trusts and partnerships, which are not owned but are created.

The Treasury Department believes that this commenter misunderstood the intent of the phrase "wholly owned initially," and so has modified the phrase to clarify its purpose. The Treasury Department is of the opinion that if trusts or other special purpose financing entities are going to be used in making the Private Loan, then the criteria for "Eligible Private Lender" should be applied to the parties that initially "fund" the trust or other special purpose financing entities, since these parties are in reality making the Private Loan.

In addition to the newly created term "Derivative," the Treasury Department has added two new definitions to the final rule, "Guaranteed-Amount Debt Derivative" and "Guaranteed-Amount Equity Derivative" (§ 25.100 (n) and (o), respectively). These new defined terms are used in the revised section pertaining to non-separability (§ 25.404).

One comment requested that the final rule define the "Guaranty Coverage" of the Guaranty.

The Treasury Department did not accept this comment because it concluded that such a definition in the rule might create an ambiguity or a conflict with the terms of the Guaranty itself. Instead, the Treasury Department has included new defined terms in the final rule, "Guaranteed Loan Amount" (§ 25.100(q)), "Guaranteed Loan Portion Amount" (§ 25.100(r)), and "Guaranteed Amount Equivalent" (§ 25.100(p)). The term "Guaranteed Loan Amount" refers to the amount of a Private Loan which is guaranteed under the Guaranty. The term "Guaranteed Loan Portion Amount" refers to the amount of a portion of the Private Loan which is guaranteed under the Guaranty. The term "Guaranteed Amount Equivalent" is added to ensure that the prohibition against separating the guaranteed amount of the Private Loan from the unguaranteed amount is not circumvented through the establishment of successive trusts or special purpose financing entities issuing Derivatives of Derivatives. The terms "Guaranteed Loan Amount," "Guaranteed Loan Portion Amount," and "Guaranteed Amount Equivalent" are used in the revised section pertaining to non-separability (§ 25.404).

One comment asked for clarification of a perceived ambiguity between the definition of "Private Lender" in the interim rule and the definition of "Beneficiary" in the form of Guaranty (§ 25.406). Specifically, this commenter indicated that the definition of Private Lender states that the "Private Lender" must be chartered or otherwise organized under the laws of a state, the District of Columbia, the United States or any territory or possession of the United States and lawfully doing business in the United States, while the Guaranty indicates that the Lender may assign its rights under the Guaranty to any entity merely doing business in the United States.

The Treasury Department responds that the class of entities that are authorized to make the refinancing loans under the FMS refinancing legislation is a more narrow class than the class of entities that are permitted to hold guaranties under the Arms Export Control Act. Therefore, the Treasury Department has altered the Guaranty form in the final rule to clarify this point. Moreover, the final rule has added a new defined term, "Permitted Guaranty Holder" (§ 25.100(w)).

Some comments objected to the definition of "Permitted P&I Prepayment Amount" (§ 25.100(x) in the interim rule, renumbered § 25.100(v) in the final rule). Specifically, there was objection to clause (1) of this section which allows only principal amounts that become due and payable after September 30, 1989 to be included in "Eligible FMS Advances" or "Eligible FMS Loans" for refinancing.

The Treasury Department believes that the eligibility criteria established in this definition are mandated by the terms of the refinancing legislation, which provides authority only "to finance the prepayment at par of the principal amounts maturing after September 30, 1989." Therefore, this definition remains unchanged in the final rule.

A comment on the definition of "Private Loan" (§ 25.100(q) in the interim rule, renumbered § 25.100(y) in the final rule) reflected a concern that these definitions did not specifically address a public sale or private placement of debt obligations secured by the refinancing loan. The comment admitted that such sale or placement was implicit in the interim rule.

The Treasury Department agrees that such sale or placement is implicit in the interim rule. The final rule remains unchanged on this point.

Another comment on this section requested clarification that the "Private Loan" evidences an obligation of a sovereign nation. This commenter asserted that this clarification would reduce the Borrower's costs in obtaining a Private Loan.

The commenter offered no evidence to substantiate this assertion of reduced costs. Further, the Treasury Department did not believe that, for the purposes of this rule, it was either necessary or proper to define what does or does not constitute the sovereign debt of a country. Therefore, the Treasury Department has not changed this section of the rule.

As complements to the newly created definitions of the "Guaranteed Loan Amount" (§ 25.100(q)), the "Guaranteed Loan Portion Amount" (§ 25.100(r)), and the "Guaranteed-Amount Equivalent" (§ 25.100(p)), the Treasury Department has added new definitions for the "Unguaranteed Loan Amount" (§ 25.100(ee)), the "Unguaranteed Loan Portion Amount" (§ 25.100(ff)), and the "Unguaranteed-Amount Equivalent" (§ 25.100(dd)).

2. Section 25.200—General Rule

One commenter on paragraph (c) stated that while § 25.200 generally provided the necessary level of flexibility to a Borrower seeking to refinance existing loans, paragraph (c) did not provide the flexibility to split FMS loans so that early and late maturities could be separated and refinanced separately.

The interim rule allowed for Eligible FMS Loans to be refinanced on a advance-by-advance basis, thus allowing Borrowers and their Eligible Private Lenders great flexibility to structure Private Loans. However, the Treasury Department decided that the

administrative expense that would be incurred in accounting for partially refinanced advances did not warrant including this ultimate degree of flexibility. Moreover, the refinancing legislation does not contemplate the partial pepayment of advances.

Another commenter on this section was of the opinion that the interim rule provided that only whole Eligible FMS Loans could be refinanced.

This is incorrect. As stated above, Eligible FMS Loans can be refinanced on an advance-by-advance basis, but Eligible FMS Advances cannot be partially refinanced. Therefore, this section remains unchanged.

There were a few comments on subsection (b), the requirement that all prepayments must have a Closing Date not later than September 30, 1991. These commenters stated that Borrowers should be given the flexibility to seek approval of a prepayment application through that date and be allowed to close the approved prepayment at any time after that date.

The refinancing legislation authorizes the refinancing program for the period of Fiscal Year 1988 through 1991. The Treasury Department, in consultation with DSAA, the guarantor of the Private Loans, has concluded that authority does not exist to extend the program beyond Fiscal Year 1991. Therefore, this section remains unchanged in the final rule.

In response to a comment on Eligible FMS Advance, the Treasury Department has added § 25.200(d) which describes how principal payments that have already been made on FMS Loans which have already been consolidated will be applied under the terms of the respective promissory note for purposes of determining the outstanding principal balances of Eligible FMS Advances.

3. Section 25.300—Application Procedure

Two commenters stated that the requirement contained in § 25.300(a)(4) for the inclusion of all material transaction documents in substantially final form with a prepayment application was burdensome. One commenter stated that, as an alternative, the prepayment application should contain a detailed description of the proposed financial structure addressing terms of critical interest necessary to properly evaluate the Private Loan.

The Treasury Department has modified the section to allow a Borrower the choice of (1) the application procedure outlined in the interim rule, or (2) an optional additional procedure outlined in a new subsection (c) in the final rule, which allows the Borrower to obtain a preliminary, nonbinding review by DSAA of a proposed Private Loan. We believe that this optional procedure allows all of the parties concerned the necessary flexibility to place expeditiously a Private Loan.

4. Section 25.301—Approval Procedure

Many commenters objected to the provisions in this section that provide for unlimited review periods of the prepayment application by DSAA and the State Department.

The Treasury Department agrees that the total review and processing time by the DSAA, the State Department, and the Treasury Department should be limited to 30 days. In the final rule, these review periods have been defined and the section modified.

5. Section 25.302—Application Withdrawal

One commenter requested that the final rule provide that an approved refinancing application be permitted to be withdrawn at the option of the Borrower.

The final rule has added a new section to this effect.

6. Section 25.302—Closing Procedure (Renumbered § 25.303 in the Final Rule)

One commenter objected to the provisions contained in this section that would establish a Closing Date at the time that a prepayment application was approved. Further, this commenter urged that the rule be modified to allow the Closing Date to be established solely at the discretion of the Borrower.

The definition of "Closing Date", as written in the interim rule, provides that the Closing Date is to be established after the prepayment application has been approved. The interim rule also provides that the Closing Date is to be established by the mutual agreement of the Borrower, DSAA, and, in the case of FMS Loans which had been made by FFB, FFB. The Treasury Department believes that the reasonable administrative concerns of the respective governmental agencies need to be taken into account when scheduling Closing Dates. The Treasury Department has modified § 25.302 to reiterate that the Closing Date would be established on a date mutually agreeable to the parties involved in the closing. In addition, the Treasury Department has added a new paragraph (c) to this section clarifying that a Borrower may change an agreed upon Closing Date. However if the Borrower chooses to change the Closing Date, the new Closing Date must be mutually agreeable to the parties involved in the closing and the prepayment must be made in accordance with the approved prepayment application, adjusted for changes in accrued interest.

One commenter requested that prepayments be allowed to be made using "next day funds."

The institutional practice of the Federal Financing Bank is to require that any prepayments be made in "immediately available funds." Therefore, this provision has not been changed in the final rule.

7. Section 25.400—Loan Provisions

Many commenters objected to the requirement that the principal and interest payment schedule and maturity be similar to the Eligible FMS Loans or Eligible FMS Advances that are being refinanced. Many commenters stated that flexibility in payment structures would be of benefit to the Borrowers. Specifically, two commenters asserted that a savings of 5–10 basis points could be achieved if a payment structure of semi-annual payments of interest with annual payments of principal were allowable.

Another commenter indicated that the interim rule did not adequately define the first principal payment date for the Private Loan.

Another commenter on this section stated that the requirement that the principal and interest payment schedules of the proposed Private Loan be substantially the same as that of the eligible debt being refinanced conflicted with the structure that would result from the blending of payment schedules permitted by the interim rule. This commenter then went on to offer an example of how this conflict would lead to Private Loan repayment schedules that would be substantially different from the individual pieces of underlying debt.

The Treasury Department agrees that allowing for additional flexibility would facilitate refinancings. The Treasury Department also agrees that the blending of payment schedules permitted by the interim rule could result in substantial differences between payment schedules in the Private Loan and the Eligible FMS Loans or Eligible FMS Advances being refinanced. In an effort to address these issues in the final rule, the Treasury Department has modified this section to allow Borrowers and their Eligible Private Lenders two options for structuring the Private Loan and for fixing the first principal payment date.

The first option would permit the differing payment structures of Eligible

FMS Loans or Eligible FMS Advances to be consolidated into a single Private Loan payment structure that provides for semi-annual payments of principal and interest, with the amounts of principal of the Private Loan to be paid each year being the same as the principal that would have been paid in such year under the payment structure of the Eligible FMS Loans or Eligible FMS Advances.

The second option would allow for the differing payment structures of the Eligible FMS Loans or Eligible FMS Advances to be consolidated into a single payment structure of equal principal payments, subject to specific criteria relating to final maturity, first principal payment date and subsequent payment dates.

8. Section 25.401—Fees

One commenter indicated that the interim rule be modified to allow for the inclusion of "reasonable fees and expenses" in the amount refinanced. This commenter indicated further that the interim rule did not appear to contemplate the payment of fees and expenses on the Closing Date.

The interim rule states: "The interest rate on the Private Loan may include compensation for costs at prevailing market rates with the agreement of the Borrower and the Private Lender selected by the Borrower." This language is derived from the refinancing legislation, which provides that "the private lender may include, *in the interest rate charged*, a standard fee to cover costs, such fee which shall be set at prevailing market rates" (emphasis added). The Treasury Department believes that this language prohibits the Private Lender from including fees or expenses in the principal of the Private Loan. Therefore, this section remains unchanged in the final rule.

9. Section 25.403—Registration

One commenter objected to the provision that the Guaranty would cease to be effective if the guaranteed obligation were to provide significant support for a non-registered obligation.

This provision is derived directly from the refinancing legislation, which provides that "any guaranty transferred or extended shall cease to be effective if the private loan or any derivative thereof is to be used to provide significant support for any non-registered obligation."

Another commenter stated that it was unclear whether the Guaranty, as written in the interim rule, would continue to exist at all for any holders of any portion of a Private Loan Note if one holder of a portion of the Private Loan Note violated this section.

The Treasury Department responds that the Guaranty ceases to be effective only to the extent of, and only with respect to, the violation of this section. Therefore, this section has been modified to clarify this point in the final rule.

10. Section 25.404—Non-Separability

Many commenters objected to this section of the interim rule. In particular, many commenters stated that the Treasury Department was interfering with an Eligible Private Lender's "sources of funds" by applying the concept of non-separability to "derivatives" of the Private Loan.

While some commenters conceded that the prohibition against separating the guaranteed amount of the Private Loan from the unguaranteed amount could be interpreted as being applicable to participation shares of, or undivided ownership interests in, the Private Loan ("equity derivatives"), these same commenters asserted that the prohibition should not be interpreted as being applicable to debt instruments issued by the Eligible Private Lender that are secured by the Private Loan ("debt derivatives").

Many of the commenters also objected to this section having provided that the Guaranty would cease to be effective if the section were violated.

The refinancing legislation provides that the United States Government guaranty of a Private Loan "shall cover no more and no less than ninety percent of the private loan or any portion *or derivative thereof*." (emphasis added). The refinancing legislation also prohibits separating the guaranteed amount of the Private Loan from the unguaranteed amount. While this second provision is not made explicitly applicable to "derivatives" of the Private Loan, the Treasury Department interpreted the refinancing legislation by reading these two provisions together. Based on such a reading, the Treasury Department concluded in the interim rule that the prohibition against separating the guaranteed amount from unguaranteed amount applied to "derivatives" of the Private Loan.

As some commenters on this section conceded, the interpretation of the prohibition as being applicable to "equity derivatives" of the Private Loan, that is, participation shares of, or undivided ownership interests in, the Private Loan, is well supported by reading the two provisions of the refinancing legislation together. Therefore, the non-separability provision of the interim rule as it applies to such "equity derivatives" remains unchanged in the final rule.

The greatest objection to the non-separability provision of the interim rule was with respect to how it applied to "debt derivatives" of the Private Loan, that is, debt instruments of the Eligible Private Lender collateralized by the Private Loan. The commenters asserted this provision interfered with a lender's relationships with its investors.

The Treasury Department responds that this provision should have no effect on a lender's sources of funds so long as the lender does not separate the guaranteed amount of the Private Loan from the unguaranteed amount and use the guaranteed amount alone as a means of obtaining funds. The provision does not restrict an Eligible Private Lender from using the entire, unseparated Private Loan as collateral for obtaining funds.

Nevertheless, the Treasury Department recognizes that there is some ambiguity in the refinancing legislation as to the extent to which the non-separability provision of the refinancing legislation should be applied to the Eligible Private Lender's means of obtaining funds. Moreover, some commenters have asserted that some lenders will charge some Borrowers a higher cost of borrowing as a result of the non-separability provision being applied to the lenders' fund-raising activities. Accordingly, the Treasury Department has modified this section in the final rule to create a limited exception to the prohibition against separating the guaranteed amount from the unguaranteed amount of the Private Loan. This section now permits debt derivatives of the guaranteed amount of the Private Loan to be issued if both of two circumstances occur.

First, the Borrower must submit proof, satisfactory to the Treasury Department, that, as a result of the non-separability provision of the final rule, the Borrower will incur a substantial increase in the borrowing cost of the Private Loan, expressed in terms of the true rate of interest of the Private Loan. This increase in costs must be directly attributable to the prohibition against issuing derivatives of the guaranteed portion of the Private Loan. Second, the Treasury Department must determine that allowing a particular Borrower to refinance its loans using derivatives of the guaranteed amount of the Private Loan is necessary to achieve the international economic policy interests of the United States.

11. Section 25.405—Collateralization of Unguaranteed Amount

Many commenters objected to this section of the interim rule, asserting that the prohibition against collateralization with securities of the United States Government or any of its agencies had no foundation in the refinancing legislation.

As in the comments on § 25.403, many commenters objected to the section having provided that the Guaranty would cease to be effective if this section were violated.

The refinancing legislation provides that the United States Government guaranty of the Private Loan shall cover no more than 90 percent of the Private Loan. The Treasury Department interpreted this provision as prohibiting Borrowers from enhancing the credit of the 10 percent unguaranteed amount of the Private Loan to the point that the Private Loan became, in effect, 100 percent guaranteed. To give effect to this interpretation, the Treasury Department included in the interim rule a prohibition against Borrowers collateralizing the unguaranteed amount of their Private Loans with securities backed by the full faith and credit of the United States.

Upon reconsideration of its interpretation, however, the Treasury Department found no explicit direction in the refinancing legislation to prohibit such collateralization. Finding no such requirement, the Treasury Department has eliminated the prohibition in its entirety. The section containing the prohibition has been deleted from the final rule.

12. Section 25.406—Form of Guaranty (Renumbered § 25.405 in the Final Rule)

Some commenters indicated that the form of Guaranty is unattractive to the market and that the Guaranty should be altered to conform to market practice. These commenters asserted that failure to use a more conventional form of Guaranty would lead to more costly financings. In addition, some commenters submitted a form of Guaranty which they proposed to the Department of the Treasury for consideration as a substitute for the form of Guaranty contained in this section.

Debate about whether the use of a more conventional form of Guaranty would result in less expensive refinancings is irrelevant. The refinancing legislation specifically requires that "the terms of guarantees transferred or issued under this paragraph shall be exactly the same as the existing * * * guarantees, except as modified by this paragraph." Thus, the refinancing legislation allows no flexibility with regards to the Guaranty form. The Guaranty form included in this section follows the form of the existing guarantees attached to the existing FMS Loans, except to the extent that it has been modified to incorporate specific conditions required by the refinancing legislation. Therefore, the form of Guaranty contained in the final rule remains unchanged except as discussed above under the comments on the definition of Private Lender, non-separability and collateralization.

One commenter indicated that the prohibition against acceleration contained in the Guaranty would raise the cost of financing to the Borrower.

DSAA, the guarantor of the Private Loan, has advised us that it is necessary that this part of the Guaranty, which is derived from the existing guaranty on the FMS loans being refinanced, remain as provided for in the interim rule. Therefore, this section of the final rule remains unchanged.

Again, many commenters reiterated the argument that the Guaranty should not become ineffective if its terms are violated as discussed in the analysis of §§ 25.403, 25.404 and 25.405 above. The form of Guaranty has been revised in the final rule to clarify that it ceases to be effective only to the extent of, and only with respect to, the violation of the terms of the Guaranty, as in the analysis of these sections cited above. Moreover, the conditional nature of the Guaranty is required by the refinancing legislation.

13. Section 25.407—Savings Clause (Renumbered § 25.406 in the Final Rule)

One commenter objected to the inclusion of this section, arguing that it would be used by "persons or organizations" in an attempt to mislead or confuse Borrowers for narrow personal reasons.

The Treasury Department included this section to make it clear that neither the law nor the rules were intended to change the interpretation or application of existing statutes, including, but not limited to, tax, securities and banking statutes. The Treasury Department continues to believe that this clarification is useful.

As a final point on the interim rule, some commenters requested that the rule allow for refinancings of Private Loans, should such refinancings become financially attractive at some future date prior to the end of the program.

The Treasury Department responds that, inasmuch as a Private Loan made to refinance an Eligible FMS Loan or an Eligible FMS Advance would not have been an existing FMS loan on December 22, 1987, it would not be eligible for refinancing under the authority of the refinancing legislation.

III. Procedural Requirements

Because this rule involves foreign and military affairs functions of the United States, it is not subject to Executive Order 12291 or the public notice and delayed effective date requirements of the Administrative Procedure Act (5 U.S.C. 553).

As no notice of proposed rulemaking is required, this final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

IV. Paperwork Reduction Act

The requirements to collect information contained in the rule have been reviewed and approved by the Office of Management and Budget pursuant to section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 31 CFR Part 25

Banks and banking, Loan programs—national defense, Reporting and recordkeeping requirements.

V. Authority

Title III, Pub. L. 100–202, 31 U.S.C. 321, Foreign Military Sales Department Reform.

Subtitle A of Title 31, Code of Federal Rules, is amended by revising Part 25 to read as follows:

PART 25—PREPAYMENT OF FOREIGN MILITARY SALES LOANS MADE BY THE DEFENSE SECURITY ASSISTANCE AGENCY AND FOREIGN MILITARY SALES LOANS MADE BY THE FEDERAL FINANCING BANK AND GUARANTEED BY THE DEFENSE SECURITY ASSISTANCE AGENCY

Subpart A—General

Sec.

Subart B—Qualifications for Prepayment

Subpart C—Procedures

Subpart D—Form of Private Loan

Authority: Title III, Pub. L. 100-202; 31 U.S.C. 321.

Subpart A—General

§ 25.100 Definitions.

In this part, unless the context indicates otherwise:

(a) "Act" means the provisions entitled "Foreign Military Sales Debt Reform," of Title III, entitled "Military Assistance," of an act entitled "Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988" (Pub. L. No. 100-202), enacted December 22, 1987.

(b) "AECA" means the Arms Export Control Act, as amended (22 U.S.C. 2751 *et seq.*).

(c) "Borrower" means the obligor on an FMS Advance.

(d) "Closing Date" means:

(1) With respect to the prepayment of the amounts permitted by this part to be prepaid of FMS Loans held by DSAA, the date designated by the mutual agreement of both the Borrower and DSAA on which the Guaranty will be attached to the Private Loan Note or the Private Loan Portion Notes, as the case may be, the Private Loan will be funded, and the Total Permitted Prepayment Amount, or the portion thereof which the Borrower has selected to prepay, will be prepaid; and

(2) With respect to the prepayment of the amounts permitted by this part to be prepaid of FMS Loans held by the FFB and guaranteed by DSAA, the date designated by the mutual agreement of the Borrower, the FFB, and DSAA on which the Guaranty will be attached to the Private Loan Note or the Private Loan Portion Notes, as the case may be, the Private Loan will be funded, and the Total Permitted Prepayment Amount, or Portion thereof which the Borrower has selected to prepay, will be prepaid.

(e) "Derivative" means any right, interest, instrument or security issued or traded on the credit of the Private Loan or any Private Loan Portion, including but not limited to:

(1) Any participation share of, or undivided ownership or other equity interest in, the Private Loan or any Private Loan Portion;

(2) Any note, bond or other debt instrument or obligation which is collateralized or otherwise secured by a pledge of, or secruity interest in, the Private Loan or any Private Loan Portion; or

(3) Any such interest in such an interest or any such instrument secured by such an instrument.

(f) "DSAA" means the Defense Security Assistance Agency, an agency within the Department of Defense.

(g) "Eligible FMS Advance" means any FMS Advance which:

(1) Was outstanding on December 22, 1987;

(2) Has principal amounts becoming due and payable after September 30, 1989; and

(3) Bears interest at a rate equal to or greater than 10 percentum per annum.

"Eligible FMS Advance" may include FMS Advances meeting the criteria of Eligible FMS Advance which are made on account of FMS Loans even when such FMS Loans do not, in themselves, meet the criteria of Eligible FMS Loan.

(h) "Eligible FMS Loan" means any FMS Loan which:

(1) Was outstanding on December 22, 1987;

(2) Has principal amounts becoming due and payable after September 30, 1989; and

(3) Bears interest pursuant to the terms of the loan agreement relating thereto at a consolidated rate equal to or greater than 10 percentum per annum.

"Eligible FMS Loans" may include FMS Advances which are made on account of FMS Loans meeting the criteria of Eligible FMS Loan even when such FMS Advances do not, in themselves, meet the criteria of Eligible FMS Advance.

(i) "Eligible Private Lender" means either:

(1) Any of the following entities:

(i) Any banking, savings, or lending institution, or any subsidiary or affiliate thereof, chartered or otherwise lawfully organized under the laws of any State, the District of Columbia, the United States or any territory or possession of the United States, including, but not limited to, any bank, trust company, industrial bank, investment banking company, savings association, savings and loan association, building and loan association, savings bank, credit union, or finance company, which is doing business in the United States;

(ii) Any broker or dealer registered with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934;

(iii) Any company lawfully organized as an insurance company, and which is subject to supervision by the insurance commissioner or a similar official or agency of a State; or

(iv) Any United States pension fund; or

(2) Any trust or other special purpose financing entity which is funded initially by an entity or entities of the type described in paragraph (i)(1) of this section.

(j) "FFB" means the Federal Financing Bank, and instrumentality and wholly-owned corporation of the United States.

(k) "FMS" means Foreign Military Sales.

(l) "FMA Advance" means:

(1) A disbursement of funds made pursuant to a loan agreement between the Borrower and DSAA, which loan agreement provides for making of an FMS Loan; or

(2) A disbursement of funds made pursuant to a loan agreement between the Borrower and the FFB, which loan agreement provides for the making of an FMS Loan.

(m) "FMS Loan" means either:

(1) A loan made directly by the Secretary of Defense pursuant to section 23 of AECA; or

(2) A loan made by the FFB and guaranteed by the Secretary of Defense pursuant to section 24 of AECA; and "FMS Loans" mean the aggregate of such loans made to or for the account of a Borrower.

(n) "Guaranteed-Amount Debt Derivative" means any note, bond or other debt instrument or obligation which is collateralized or otherwise secured by a pledge of, or security interest in, the Private Loan Note or any Private Loan Portion Note or any Derivative, as the case may be, which has an exclusive or preferred claim to the Guaranteed Loan Amount or the respective Guaranteed Loan Portion Amount or the respective Guaranteed-Amount Equivalent, as the case may be.

(o) "Guaranteed-Amount Equity Derivative" means any participation share of, or undivided ownership or other equity interest in, the Private Loan or any Private Loan Portion or any Derivative, as the case may be, which has an exclusive or preferred claim to the Guaranteed Loan Amount or the respective Guaranteed Loan Portion Amount or the respective Guaranteed-Amount Equivalent, as the case may be.

(p) "Guaranteed-Amount Equivalent" means:

(1) With respect to any Derivative which is equal in principal amount to the Private Loan or any Private Loan Portion, that amount of payment on account of such Derivative which is equal to the Guaranteed Loan Amount or the respective Guaranteed Loan Portion Amount, as the case may be; or

(2) With respect to any Derivatives which in the aggregate are equal in principal amount to the Private Loan or any Private Loan Portion, that amount of payment on account of such derivatives which is equal to the Guaranteed Loan Amount or the respective Guaranteed Loan Portion Amount, as the case may be.

(q) "Guaranteed Loan Amount" means that amount of payment on account of

the Private Loan which is guaranteed under the terms of the Guaranty.

(r) "Guaranteed Loan Portion Amount" means that amount of payment on account of any Private Loan Portion which is guaranteed under the terms of the Guaranty.

(s) "Guaranty" means either a new guaranty of the United States issued by DSAA or an existing guaranty of the United States transferred by DSAA, in the form of guaranty set forth in § 25.405, which guaranty will be attached to a Private Loan Note or Private Loan Portion Note.

(t) "Interest Rate Difference" means the difference between:

(1) The cost of funds to the Borrower for the Private Loan (expressed in terms of the true rate of interest applicable to the Private Loan) if paragraph (a) of § 25.404 applies to the Private Loan; and

(2) The cost of funds to the Borrower for the Private Loan (expressed in terms of the true rate of interest applicable to the Private Loan) if paragraph (a) of § 25.404 does not apply to the Private Loan.

(u) "Non-Registered Obligation" means a bearer obligation which does not comply with all of the registration requirements of the Internal Revenue Code.

(v) "Permitted Arrears Prepayment Amount" means the sum of all arrears, if any, on all FMS Loans, which arrears are outstanding on the Closing Date.

(w) "Permitted Guaranty Holder" means:

(1) An individual domiciled in the United States;

(2) A corporation incorporated, chartered or otherwise organized in the United States; or

(3) A partnership or other juridical entity doing business in the United States.

(x) "Permitted P&I Prepayment Amount" means, with respect to each Eligible FMS Loan or Eligible FMS Advance, as the case may be, the sum of:

(1) All principal amounts which become due and payable after September 30, 1989, on the respective Eligible FMS Loan or Eligible FMS Advance; and

(2) All unpaid interest, if any, on the respective Eligible FMS Loan or Eligible FMS Advance accrued as of the Closing Date.

(y) "Private Loan" means, collectively, the loan or loans that is or are obtained by the Borrower from an Eligible Private Lender to prepay the Total Permitted Prepayment Amount, or the portion thereof which the Borrower has selected to prepay.

(z) "Private Loan Note" means, collectively, the note or notes executed and delivered by the Borrower to evidence the Private Loan.

(aa) "Private Loan Portion" means any portion of the Private Loan.

(bb) "Private Loan Portion Note" means any note executed and delivered by the Borrower to evidence a Private Loan Portion.

(cc) "Total Permitted Prepayment Amount" means the sum of:

(1) The aggregate of the respective Permitted P&I Prepayment amount for all Eligible FMS Loans and all Eligible FMS Advances on account of FMS Loans which FMS Loans do not, in themselves, meet the criteria of Eligible FMS Loans; and

(2) The Permitted Arrears Prepayment Amount.

(dd) "Unguaranteed-Amount Equivalent" means all amounts of payment on account of any Derivative other than the respective Guaranteed-Amount Equivalent.

(ee) "Unguaranteed Loan Amount" means all amounts of payment on account of the Private Loan other than the Guaranteed Amount.

(ff) "Unguaranteed Loan Portion Amount" means all amounts of payment on account of any Private Loan Portion other than the respective Guaranteed Loan Portion Amount.

§ 25.101 OMB control number.

The reporting requirements in this part have been approved under the Office of Management and Budget Control Number 1505–0109.

Subpart B—Qualifications for Prepayment

§ 25.200 General rules.

(a) To qualify for a loan prepayment at par pursuant to subsection (a) of the Act, a Borrower must have an Eligible FMS Loan or an Eligible FMS Advance.

(b) A Borrower may prepay the Total Permitted Prepayment Amount in portions using more than one closing; however, all prepayments of the Total Permitted Prepayment Amount must have a Closing Date that is not later than September 30, 1991.

(c) A Borrower may prepay all or a portion of the Total Permitted Prepayment Amount; however, if a Borrower selects to prepay any Permitted P&I Prepayment Amount of an FMS Advance, the Borrower must prepay the entire Permitted P&I Prepayment Amount of such FMS Advance.

(d) If the payment billings of an FMS Loan have been consolidated in accordance with the terms of the respective loan agreement, and if any principal payments have been made on account of the FMS Loan, then the outstanding principal balances of any Eligible FMS Advances shall be determined in accordance with the principal of "first disbursed, first repaid," that is, advances on account of the FMS Loan shall be deemed to have been repaid in the chronological order in which they were disbursed.

Subpart C—Procedures

§ 25.300 Application procedure.

(a) Each Borrower that wishes to prepay at par the Total Permitted Prepayment Amount, or any portion thereof, must submit a written prepayment application. To be considered complete, a prepayment application must contain the following information and materials:

(1) Part I of the prepayment application shall be the identification of each Eligible FMS Loan or Eligible FMS Advance, as the case may be, with respect to which the Borrower has selected to prepay the amount thereof permitted by this part to be prepaid, setting forth with respect to each such Eligible FMS Loan or Eligible FMS Advance:

(i) The date on which the Eligible FMS Advance was made or the date on which the Eligible FMS Loan was signed;

(ii) The original amount of the Eligible FMS Loan or Eligible FMS Advance;

(iii) The principal and interest payment schedule of the Eligible FMS Loan or Eligible FMS Advance; and

(iv) The maturity of the Eligible FMS Loan or Eligible FMS Advance.

(2) Part II of the prepayment application shall be the Borrower's estimate of the Permitted Arrears Prepayment Amount calculated as of the date of the application;

(3) Part III of the prepayment application shall be a description of each Private Loan, 90 percent of which the Borrower seeks to have guaranteed, setting forth with respect to each Private Loan:

(i) The total amount of the Private Loan,

(ii) The proposed principal and interest payment schedule of the Private Loan,

(iii) The proposed maturity of the Private Loan, and

(iv) The identity of each Eligible FMS Loan or Eligible FMS Advance with respect to which amount thereof permitted by this part to be prepaid is to be prepaid with the proceeds of the Private Loan;

(4) Part IV of the prepayment application shall be all material transaction documents, in substantially final form, relating to the prepayment of the Total Permitted Prepayment Amount, or the portion thereof which the Borrower has selected to prepay, with the proceeds of the Private Loan; and

(5) Part V of the prepayment application shall be the name, address, and telephone number of the Borrower's contact person with whom the FFB or DSAA will communicate to arrange for prepayment and closing.

(b) Each prepayment application shall be submitted in triplicate to DSAA at the following address: Defense Security Assistance Agency, The Pentagon, Washington, DC 20301-2800, Attention: Deputy Comptroller.

(c) A Borrower wishing to obtain preliminary, nonbinding review of a plan to prepay at par the Total Permitted Prepayment Amount, or any portion thereof, may, at the Borrower's option, prior to submitting a prepayment application in accordance with paragraph (a) of this section, submit to DSAA, at the address set forth in paragraph (b) of this section, a written plan of prepayment. To qualify for review, a plan of prepayment must include a detailed description of the proposed financing structure clearly addressing the terms and conditions of the proposed Private Loan. DSAA will review each plan of prepayment submitted by Borrowers and may engage in informal, non-binding discussions with each Borrower that submitted a plan of prepayment to assist such Borrower in preparing a prepayment application.

§ 25.301 Approval procedure.

(a) *Distribution, Review, and Processing by DSAA.* (1) Upon receipt of three copies of a completed prepayment application from a Borrower, DSAA will promptly deliver one copy of Parts I and II of the prepayment application to the State Department and one copy of Parts I, II, and V of the prepayment application to the Treasury Department.

(2) DSAA will review each completed prepayment application to ensure that the Private Loan complies with the requirements of this part, including without limitation the requirements of § 25.400. DSAA will also review each completed prepayment application to ensure that the provisions of subsection (d) of the Act (Purposes and Reports) are considered. DSAA will process each completed prepayment application within 16 days after receipt by DSAA of the respective completed application from a Borrower.

(3) After DSAA has processed a completed prepayment application, DSAA will either:

(i) Return the application to the Borrower; or

(ii) Deliver to the State Department written evidence of the approval of the prepayment application by DSAA.

(b) *Review and Processing by the State Department.* (1) The State Department will review Parts I and II of each prepayment application received by the State Department from DSAA to ensure that the provisions of subsection (d) of the Act (Purposes and Reports) are considered. The State Department will process Parts I and II of each prepayment application within 7 days after receipt by the State Department of written evidence of the approval of the prepayment application by DSAA.

(2) After the State Department has processed Parts I and II of a prepayment application, the State Department will either:

(i) Return the parts of the application to DSAA for return to the Borrower; or

(ii) Deliver to the Treasury Department written evidence of the approvals of the prepayment application by DSAA and the State Department.

(c) *Processing by the Treasury Department*—(1) *FMS Loans held by DSAA.* (i) The Treasury Department will process Parts I and II of each prepayment application regarding an Eligible FMS Loan made by DSAA or an Eligible FMS Advance on account of an FMS Loan made by DSAA, as the case may be, within 7 days after receipt by the Treasury Department of written evidence of the approvals of the prepayment application by DSAA and the State Department;

(ii) After the Treasury Department has processed Parts I and II of a prepayment application, the Treasury Department will return the parts of the application to DSAA, and thereupon DSAA will commence the Closing Procedures described in § 25.303(a) with respect to the application.

(2) *FMS Loans held by the FFB.* (i) The Treasury Department will process Parts I and II of each prepayment application regarding an Eligible FMS Loan made by the FFB and guaranteed by DSAA or an Eligible FMS Advance on account of an FMS Loan made by the FFB and guaranteed by DSAA, as the case may be, within 7 days after receipt by the Treasury Department from the State Department of written evidence of the approvals of the prepayment application by DSAA and the State Department; and

(ii) After the Treasury Department has processed Parts I and II of a prepayment application, the Treasury Department will commence the Closing Procedures described in § 25.303(b) with respect to the application.

§ 25.302 Application withdrawal; effect of approval.

A Borrower that submits a prepayment application may withdraw the prepayment application at any time prior to its approval. Even after a Borrower's prepayment application has been approved, the Borrower is not obligated to prepay its Eligible FMS Loans or Eligible FMS Advances.

§ 25.303 Closing procedure.

(a) *FMS Loans held by DSAA.* (1) After the Treasury has processed Parts I and II of a prepayment application regarding an Eligible FMS Loan made by DSAA or an Eligible FMS Advance on account of an FMS Loan made by DSAA, as the case may be, DSAA will communicate with the Borrower's contact person identified in Part V of the prepayment application to establish a Closing Date mutually agreeable to the Borrower and DSAA. DSAA will inform the Borrower of the final amount of the Total Permitted Prepayment Amount, or the portion thereof which the Borrower has selected to prepay, as of the Closing Date established. The determination by DSAA of the final amount of the Total Permitted Prepayment Amount, or the portion thereof which the Borrower has selected to prepay, shall be conclusive.

(2) On the Closing Date, the Guaranty will be attached to the Private Loan Note or the Private Loan Portion Notes, as the case may be, the Private Loan shall be funded, and the Total Permitted Prepayment Amount, or the portion thereof which the Borrower has selected to prepay, will be prepaid.

(3) The attachment of the Guaranty to the Private Loan Note or the Private Loan Portion Notes, as the case may be, will take place at such location as may be designated by the mutual agreement of the Borrower and DSAA.

(4) Prior to 1:00 p.m. prevailing local time in New York, New York, on the Closing Date, immediately available funds in amounts sufficient to prepay the Total Permitted Prepayment Amount, or the portion thereof which the Borrower has selected to prepay, shall be transferred by electronic funds transfer to DSAA at the Treasury Department account at the Federal Reserve Bank of New York. The funds transfer message must include the following credit information:

United States Treasury, New York, New York, 021030004, TREAS NYC/ (5037).

For credit to the Defense Security Assistance Agency, The Pentagon, Washington, DC 20301–2800.

This information must be *exactly* in this form (including spacing between words and numbers) to insure timely receipt by the DSAA. Checks, drafts, and other orders for payment will not be accepted.

(b) *FMS Loans held by the FFB.* (1) After the Treasury Department has processed Parts I and II of a prepayment application regarding an Eligible FMS Loan made by the FFB and guaranteed by DSAA or an Eligible FMS Advance on account of an FMS Loan made by the FFB and guaranteed by DSAA, as the case may be, the FFB will communicate with the Borrower's contact person identified in Part V of the prepayment application to establish a Closing Date mutually agreeable to the Borrower, the FFB, and DSAA. The FFB will inform the Borrower of the final amount of the Total Permitted Prepayment Amount, or the portion thereof which the Borrower has selected to prepay, as of the Closing Date established. The determination by the FFB of the final amount of the Total Permitted Prepayment Amount, or the portion thereof which the Borrower has selected to prepay, shall be conclusive.

(2) On the Closing Date, the Guaranty will be attached to the Private Loan Note or the Private Loan Portion Notes, as the case may be, the Private Loan will be funded, and the Total Permitted Prepayment Amount, or the portion thereof which the Borrower has selected to prepay, will be prepaid.

(3) The attachment of the Guaranty to the Private Loan Note or the Private Loan Portion Notes, as the case may be, will take place at such location as may be designated by the mutual agreement of the Borrower and DSAA.

(4) Prior to 1:00 p.m. prevailing local time in New York, New York, on the Closing Date, immediately available funds in amounts sufficient to prepay at par the Permitted Prepayment Amount, or the portion thereof which the Borrower has selected to prepay, shall be transferred by electronic funds transfer to the Treasury Department account at the Federal Reserve Bank of New York. The funds transfer message must include the following credit information:

United States Treasury, New York, New York, 021030004, TREAS NYC/ (20180006).
For credit to the Federal Financing Bank, Room 143, Liberty Center Building, 401 14th Street SW., Washington, DC 20227.

This information must be *exactly* in this form (including spacing between words and numbers) to insure timely receipt by the FFB. Checks, drafts, and others for payment will not be accepted.

(c) *Changes in the Closing Date.* If a Borrower does not prepay the Total Permitted Prepayment Amount or the portion thereof which the Borrower has selected to prepay, on the mutually agreed upon Closing Date, the Borrower may prepay the Total Permitted Prepayment Amount, or the portion thereof which the Borrower has selected to prepay, on a new Closing Date, *provided* that the new Closing Date is mutually agreeable to all interested parties, and *provided, further,* that the Borrower prepays such amount in accordance with the approved prepayment application, adjusted for changes in accrued interest.

Subpart D—Form of Private Loan

§ 25.400 Loan provisions.

(a) Subject to the provisions of paragraph (b) of this section, the principal and interest payment schedule and maturity of the Private Loan must be the same as the payment schedules and maturities of the Eligible FMS Loans or Eligible FMS Advances, as the case may be, which the Borrower has selected to prepay with the proceeds of the Private Loan.

(b) Notwithstanding the preceding paragraph, an Eligible Private Lender that proposes to make a Private Loan, the proceeds of which will be used to prepay Eligible FMS Loans or Eligible FMS Advances, as the case may be, having differing payment structures and maturities, may:

(1) Consolidate the differing payment structures of the Eligible FMS Loans or the Eligible FMS Advances, as the case may be, into a single payment structure which complies with the following criteria:

(i) The Private Loan shall have one set of semi-annual payment dates;

(ii) Interest on and principal of the Private Loan shall be payable semi-annually; and

(iii) The amount of principal to be paid each year on account of the Private Loan shall be equal (rounded to the nearest $1,000.00 if desired, except for the final payment) to the aggregate amount of principal that is scheduled to be paid in such year on account of the respective Eligible FMS Loans or Eligible FMS Advances; or

(2) Consolidate the differing payment structures and maturities of the Eligible FMS Loans or the Eligible FMS Advances, as the case may be, into a single payment structure and maturity complying with the following criteria:

(i) The final maturity date of the Private Loan shall be the approximate weighted average of the final maturity dates of the Eligible FMS Loans or the Eligible FMS Advances with respect to which the Borrower has selected to prepay amounts thereof permitted by this part to be prepaid;

(ii) The initial principal payment date of the Private Loan shall occur no later than the earliest scheduled principal payment date of the Eligible FMS Loans or the Eligible FMS Advances with respect to which the Borrower has selected to prepay amounts thereof permitted by this part to be prepaid;

(iii) The Private Loan shall have one set of semi-annual payment dates;

(iv) Interest on the Private Loan shall be payable semi-annually; and

(v) The principal of the Private Loan shall be payable in equal installments (rounded to the nearest $1,000.00 if desired, except for the final payment) and shall be payable either semi-annually or annually.

§ 25.401 Fees.

The interest rate on the Private Loan may include compensation for costs at prevailing market rates with the agreement of the Borrower and the Eligible Private Lender selected by the Borrower.

§ 25.402 Transferability.

Each Private Loan Note, with the Guaranty attached, shall be fully and freely transferable to any Permitted Guaranty Holder.

§ 25.403 Registration.

The Guaranty shall cease to be effective with respect to the Private Loan or any Private Loan Portion or any Derivative to the extent that the Private Loan or the respective Private Loan Portion or the respective Derivative, as the case may be, is used to provide significant support for a Non-Registered Obligation.

§ 25.404 Non-Separability.

(a) The Guaranty shall cease to be effective with respect to any Guaranteed Loan Amount or any Guaranteed Loan Portion Amount or any Guaranteed-Amount Equivalent to the extent that:

(1) The Guaranteed Amount or the respective Guaranteed Loan Portion Amount or the respective Guaranteed-Amount Equivalent, as the case may be, is separated at any time from the Unguaranteed Loan Amount or the respective Unguaranteed Loan Portion Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, in any way, directly or through the issuance of any Guaranteed-Amount

Equity Derivative or any Guaranteed-Amount Debt Derivative; or

(2) Any holder of the Private Loan Note or any Private Loan Portion Note or any Derivative, as the case may be, having a claim to payments on the Private Loan receives more than 90 percent of any payment due to such holder from payments made under the Guaranty at any time during the term of the Private Loan.

(b) Notwithstanding the preceding paragraph, if any Guaranteed-Amount Debt Derivative is issued, the Guaranty shall not cease to be effective with respect to any Guaranteed Loan Amount or any Guaranteed Loan Portion Amount or any Guaranteed-Amount Equivalent, as the case may be, if both of the circumstances described in paragraphs (b)(1) and (b)(2) of this section.

(1) A Borrower shall have delivered to the Secretary of the treasury evidence, in form and substance satisfactory to the Secretary of the Treasury, that the Interest Rate Difference will be substantial.

(i) To be considered, the evidence must meet the following requirements:

(A) The Borrower must show that the Interest Rate Difference is directly attributable to paragraph (a) of this section being applied to the Private Loan, that is, that the Interest Rate Difference will exist even when all other financing terms of the Private Loan, including any collateralization of the Unguaranteed Loan Amount or the respective Unguaranteed Loan Portion Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, are identical;

(B) When calculating the Interest Rate Difference, the Borrower must assume that the Unguaranteed Loan Amount or the respective Unguaranteed Loan Portion Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, will be collateralized by securities backed by the full faith and credit of the United States, unless the Borrower is legally prohibited from so collateralizing the Unguaranteed Loan Amount or the respective Unguaranteed Loan Portion Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, or the Borrower has demonstrated to the satisfaction of the Secretary of the Treasury that the Borrower is unable to so collateralize the Unguaranteed Loan Amount or the respective Unguaranteed Loan Portion Amount or the respective Unguaranteed-Amount Equivalent;

(C) If the Borrower is legally prohibited from collateralizing the Unguaranteed Loan Amount or the respective Loan Guaranteed Portion Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, with securities backed by the full faith and credit of the United States or has demonstrated to the satisfaction of the Secretary of the Treasury that the Borrower is unable to so collateralize the Unguaranteed Loan Amount or the respective Unguaranteed Loan Portion Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, then the Borrower may calculate the Interest Rate Difference using whatever collateralization assumptions the Borrower elects;

(D) If the Borrower delivers evidence to the Secretary of the Treasury respecting the Interest Rate Difference, which evidence assumes either that the Unguaranteed Loan Amount or the respective Unguaranteed Loan Portion Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, will not be collateralized at all or that the Unguaranteed Loan Amount or the respective Unguaranteed Loan Portion Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, will be collateralized, but not by securities backed by the full faith and credit of the United States, then the Borrower must also deliver to the Secretary of the Treasury the written agreement of the Borrower, which agreement shall be in form and substance satisfactory to the Secretary of the Treasury, that the Borrower will not collateralize the Unguaranteed Loan Amount or the respective Unguaranteed Loan Portion Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, at any time during the term of the Private Loan in any way different from the assumptions used in calculating the Interest Rate Difference; and

(E) The Borrower must deliver to the Secretary of the Treasury the evidence pertaining to the Interest Rate Difference at the time that the Borrower submits to DSAA its plan for prepayment, if any, if no plan of prepayment is submitted, then no later than 10 days prior to the time that the Borrower submits to DSAA its prepayment application.

(ii) If the Secretary of the Treasury determines that the evidence submitted by the Borrower pertaining to the Interest Rate Difference is satisfactory in form and in substance, and that the Interest Rate Difference is substantial, a modified version of the Guaranty (deleting therefrom the provision that the Guaranty shall cease to be effective if any Guaranteed-Amount Debt Derivative is issued) will be attached to the Private Loan Note or the Private Loan Portion Notes, as the case may be.

(2) The Secretary of the Treasury shall have determined, in the sole discretion of the Secretary of the Treasury, that the respective Borrower's loan prepayment at par pursuant to subsection (a) of the Act through the issuance of any Guaranteed-Amount Debt Derivative is necessary to achieve the international economic policy interests of the United States.

§ 25.405 Form of guaranty.

(a) The Guaranty that will be attached to the Private Loan Note on the Closing Date shall be in the following form (except that the bracketed words shall be deleted if the conditions specified in § 25.404(b) shall have occurred):

For Value Received, the Defense Security Assistance Agency of the Department of Defense ("DSAA"), hereby guarantees to (Name of Lender) ("Lender"), incorporated under the laws of (U.S. State or other U.S. jurisdiction) or if not so incorporated or organized, then the principal place of doing business is (U.S. location, address, and zip code), under the authority of Section 24 of the Arms Export Control Act, as amended ("Act"), the due and punctual payment of ninety percent (90%) of amounts due: (1) on the promissory note ("Note") in the principal amount of up to $——— dated ——— issued to the Lender by the Government of (Name of Borrower) ("Borrower") pursuant to the Loan Agreement between the Lender and the Borrower dated the ——th day of ——— ("Agreement"); and (2) the Lender from the Borrower pursuant to the Agreement.

This Guaranty is a guaranty of payment covering all political and credit risks of nonpayment, including any nonpayment arising out of any claim which the Borrower may now or hereafter have against any person, corporation, or other entity (including without limitation, the United States, the Lender, and any supplier of defense items) in connection with any transaction, for any reason whatsoever. This Guaranty shall inure to the benefit of and shall be enforceable by the Lender and any Permitted Guaranty Holder (as hereinafter defined). This Guaranty shall not be impaired by any law, regulation or decree of the Borrower now or hereafter in effect which might in any manner change any of the terms of the Note or Agreement. The obligation of DSAA hereunder shall be binding irrespective of the irregularity, invalidity or unenforceability under any laws, regulations or decrees of the Borrower of the Note, the Agreement or other instruments related thereto.

DSAA hereby waives diligence, demand, protest, presentment and any requirement that the Lender exhaust any right or power to take any action against the Borrower and any notice of any kind whatsoever other than the demand for payment required to be given to DSAA hereunder in the event of default on a payment due under the Note.

In the event of failure of the Borrower to make payment, when and as due, of any installment of principal or interest under the Note, the DSAA shall make payment

immediately to the Lender upon demand to the DSAA after the Borrower's failure to pay has continued for 10 calendar days. The amount payable under this Guaranty shall be ninety percent (90%) of the amount of the overdue installment of principal and interest, plus ninety percent (90%) of any and all late charges and interest thereon as provided in the Agreement. Upon payment by DSAA to the Lender, the Lender will assign to DSAA, without recourse or warranty, ninety percent (90%) of all of its rights in the Note and the Agreement with respect to such payment.

In the event of a default under the Agreement or the Note by the Borrower and so long as this Guaranty is in effect and the DSAA is not in default hereunder:

(i) The Lender or other Permitted Guaranty Holder shall not accelerate or reschedule payment of the principal or interest on the Note or any other note of the Borrower guaranteed by DSAA except with the written approval of DSAA; and

(ii) The Lender or other Permitted Guaranty Holder shall, if so directed by DSAA, invoke the default provisions of the Agreement.

Subject to the limitations set forth below, the Lender's rights under this Guaranty may be assigned to any "Permitted Guaranty Holder," that is: (1) An individual domiciled in the United States; (2) a corporation incorporated, chartered or otherwise organized in the United States; or (3) a partnership or other juridical entity doing business in the United States. In the event of such assignment DSAA shall be promptly notified. The Lender will not agree to any material amendment of the Agreement or Note or consent to any material deviation from the provisions thereof without the prior written consent of DSAA.

Permitted Guaranty Holders shall be severally bound by, and shall be severally entitled to, the rights and obligations of the Lender under the Note, the Agreement, and this Guaranty. The Lender shall maintain a current, accurate written record of the names, addresses, amount of financial interest in the Note and Agreement, and date of acquisition of such interest of each Permitted Guaranty Holder and shall furnish DSAA a copy of such record on its demand without charge. No assignment by the Lender or by any Permitted Guaranty Holder shall be effective for purposes of this Guaranty unless and until so recorded by the Lender.

The total amount of this Guaranty shall not at any time exceed ninety percent (90%) of the outstanding principal, unpaid accrued interest and arrearages, if any, under the Agreement and the Note, including any portion of the Note, or any derivative of the Note or any portion of the Note.

This Guaranty shall cease to be effective with respect to the guaranteed amount of the total amount of the Note (the "Guaranteed Loan Amount") or with respect to the guaranteed amount of any portion of the Note (the "Guaranteed Loan Portion Amount") [or with respect to the amount of any derivative or derivatives of the Note or any portion of the Note equal, or in the aggregate equal, in principal amount to the total amount of the Note or such portion of the Note, as the case may be, which amount of such derivative or derivatives is equal to the respective Guaranteed Loan Amount or Guaranteed Loan Portion Amount, as the case may be (the "Guaranteed-Amount Equivalent")] to the extent that (1) the Guaranteed Loan Amount or the respective Guaranteed Loan Portion Amount [or the respective Guaranteed-Amount Equivalent], as the case may be, is at any time separated from the unguaranteed amount of the total amount of the Note or the unguaranteed amount of the respective portion of the Note [or the amount of such derivative or derivatives of the Note which is not the amount which is equal to the Guaranteed Loan Amount or Guaranteed Loan Portion Amount, as the case may be], in any way, (a) directly, or (b) through the issuance of participation shares of, or undivided ownership or other equity interests in, the Note, or any portion of the Note, or any derivative of the Note or any portion of the Note, which have an exclusive or preferred claim to the Guaranteed Loan Amount or the respective Guaranteed Loan Portion Amount [or the respective Guaranteed-Amount Equivalent], as the case may be [or (c) through the issuance of notes, bonds or other debt instruments or obligations which are collateralized or otherwise secured by a pledge of, or security interest in, the Note, or any portion of the Note or any derivative of the Note or any portion of the Note, which has an exclusive or preferred claim to the Guaranteed Loan Amount or the respective Guaranteed Loan Portion Amount or the respective Guaranteed-Amount Equivalent, as the case may be]; or (2) any holder of the Note, or any portion of the Note, or any derivative of the Note or any portion of the Note, as the case may be, having claim to payment made on the Note, receives more than ninety percent of any payment due to such holder from payments made under this Guaranty at any time during the term of the Note or the Agreement.

This Guaranty is fully and freely transferable to any Permitted Guaranty Holder, except that it shall cease to be effective with respect to the Agreement or the Note, or any portion of the Note, or any derivative of the Note or any portion of the Note, to the extent that the Agreement or the Note, or the respective portion of the Note, or the respective derivative of the Note or any portion of the Note, as the case may be, is used to provide significant support for any non-registered obligation.

The full faith and credit of the United States is pledged to the performance of this Guaranty. No claim which the United States may now or hereafter have against the Lender or any Permitted Guaranty Holder for any reason whatsoever shall affect in any way the right of the Lender or any Permitted Guaranty Holder to receive full and prompt payment of any amount otherwise due under this Guaranty. The United States represents and warrants that (a) it has full power, authority and legal right to execute, deliver and perform this Guaranty, (b) this Guaranty has been executed in accordance with and pursuant to the terms and provisions of section 24 of the Act, the provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the hearing "Foreign Military Sales Debt Reform," and Title 31, Part 25, of the Code of Federal Regulations, (c) this Guaranty has been duly executed and delivered by a duly authorized representative of DSAA, and (d) this Guaranty constitutes the valid and legally binding obligations of the United States, enforceable in accordance with the terms hereof.

Any notice, demand, or other communication hereunder shall be deemed to have been given if in writing and actually delivered to the Comptrolier, DSAA, the Pentagon, Washington, DC 20301-2800, or the successor, or such other place as may be designated in writing by the Comptroller, DSAA or the successor thereof.

By acceptance of the Note, the Lender agrees to the terms and conditions of this Guaranty.

Dated:_____

By: _____

Director, DSAA.

(b) The obligations of DSAA under the Guaranty are expressly limited to those obligations contained in the form of Guaranty set forth in paragraph (a) of this section. Any provisions of any agreement relating to the Private Loan purporting to create obligations on the part of DSAA which are inconsistent with the terms of the Guaranty or any other provision of this part be unenforceable against DSAA.

§ 25.406 Savings clause.

Nothing in this rule is intended to authorize any person or entity to engage in any activity not otherwise authorized or permitted for such person or entity under any applicable laws of the United States, any territory or possession of the United States, any State, or the District of Columbia.

Date: June 29, 1988.

M. Peter McPherson,

Deputy Secretary.

[FR Doc. 88-15087 Filed 6-30-88; 11:23 am]

BILLING CODE 4810-25-M

Federal Register

Wednesday
July 6, 1988

Part VI

Department of Housing and Urban Development

24 CFR Parts 200, 203, and 234
Requirements for Single Family Mortgage Instruments; Notice of Proposed Policy

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 200, 203, and 234

[Docket No. N-88-1782; FR-2434]

Requirements for Single Family Mortgage Instruments

AGENCY: Office of Housing, HUD.

ACTION: Notice of proposed policy.

SUMMARY: This Notice proposes a new approach for creating mortgage instruments for HUD single family mortgage insurance programs. HUD would no longer print or distribute single family mortgage forms and would not approve the text of a complete form for each State. Mortgagees would be responsible for developing or procuring their own instruments with certain provisions required by HUD, additional optional provisions permitted by HUD, and any additional provisions needed to produce a legally enforceable instrument conforming to the law of the State in which the property is located.

DATE: Comments due September 6, 1988.

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

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Deputy Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Room 9266, 451 7th Street SW., Washington, DC 20410, telephone No. (202) 755-3046. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

The current HUD/FHA regulations require an insured single family mortgage to be on a form approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated. (The term "mortgage" is used in this notice to include all common forms of security interests in real property, including deeds of trust, and related credit instruments or notes.) The regulatory requirement dates from the 1930's when the FHA was in the forefront of developing modern residential lending practices. The FHA developed mortgage and note forms for each State which ensured that mortgagees would use instruments compatible with program requirements and good mortgage lending practices. The forms also reflected local law and practice, and there was some uniformity among the forms. The FHA mortgage and note forms have been produced and distributed up to the present at no cost to the mortgagees.

Later, the Veterans Administration (VA) developed its separate note and mortgage forms for use with VA programs. Use of approved forms was optional. VA made the forms available to its program participants. Recently, the VA concluded that it was no longer necessary for that agency to provide mortgage forms for each jurisdiction. VA regulations specify certain required and prohibited mortgage provisions. The VA regulations also provide that mortgage instruments for any VA guaranteed or insured mortgage are "amended and supplemented" to conform to the regulations.

In the early 1970's, the Federal National Mortgage Association/Federal Home Loan Mortgage Corporation (FNMA/FHLMC) forms were developed for use with those entities' programs. The FNMA/FHLMC forms consist in large part of "uniform covenants," which reflect the increasingly national nature of mortgage lending, together with "non-uniform covenants" reflecting the law and practice in a particular State. The forms carry out specific policies of those organizations on such matters as due-on-sale clauses, but they generally represent a consensus of views on the kind of provisions to be included in a modern well-drafted mortgage. There are strong similarities in approach between the FNMA/FHLMC "uniform covenants" and most of the corresponding provisions in a representative FHA mortgage. The FNMA/FHLMC documents indicate the feasibility of uniform language for most common mortgage provisions. While FNMA/FHLMC prescribe the specific language and format for documents, they do not distribute documents free of charge but rely on the mortgage lending community to arrange for actual production of the documents.

HUD has examined the approaches of FNMA/FHLMC and VA and has found merit in portions of their approaches. None of these organizations find it necessary to control the printing and distribution of mortgage instruments. HUD has also permitted mortgagees and forms companies to engage in private printing and distribution of approved mortgage forms, although many mortgagees have preferred to obtain the forms from HUD free of charge. After careful study, HUD was attracted to the concept of a uniform approach for provisions which need not vary by locality. In addition, HUD was attracted to the approach of having all mortgagees arrange for printing of their own forms.

Proposed Requirements

HUD is proposing a new approach for its single family mortgage insurance programs. Under HUD's new approach, the Department would not print or distribute mortgage forms and would not approve the text of a complete mortgage or note form for each jurisdiction. Instead, HUD would require each mortgagee to develop its own instruments or obtain them from some other source. The instruments would have to include HUD-approved uniform language which reflects current HUD policies. The language in the new requirements is primarily adapted from existing mortgage forms approved by HUD or FNMA/FHLMC. Because there is significant variation among current HUD-approved forms, use of uniform language necessarily would result in some language change from the current HUD mortgage in each jurisdiction, although there would generally be little substantive change to the major provisions. The new requirements would not supersede HUD regulations.

Additional mandatory provisions would vary among states. HUD would identify certain additional provisions, taken from the FNMA/FHLMC forms, which could be used at the mortgagee's option. Mortgagees would also have to include any additional provisions needed to produce a legally enforceable instrument conforming to the law of the state in which the property is located. HUD field offices would have authority to impose additional requirements for consistency with their state's laws and would advise mortgagees, by Circular Letter, of any such requirements.

The details of the proposed new requirements are contained in the Appendix to this Notice. The Appendix consists of four parts. Parts I (General Instructions), II (Mortgage Provisions) and III (Note Provisions) are generally applicable. Part IV (Other Requirements) addresses special situations such as non-fixed payment mortgages, condominiums, bond-funded mortgages or requirements for particular localities or programs.

Major Changes from Current Approved Forms

This section describes some of the differences between mortgages and notes that would meet the requirements of the Appendix and current approved

mortgage and note forms. Commenters interested in making a detailed comparison between Appendix requirements and a particular current approved form may obtain a copy of the current form from the appropriate HUD field office.

1. *General.* Many nonsubstantive changes in wording from current HUD forms would be made to eliminate archaic or redundant language and to otherwise improve clarity. In some cases required language has been taken from FNMA/FHLMC forms instead of HUD forms.

2. *Terminology.* The uniform mortgage and note provisions use uniform terminology for the parties to the loan transaction ("lender" and "borrower" instead of such terms as "mortgagee," "mortgagor," "beneficiary," "grantee," "grantor," "holder," and "trustor"). They also use "security instrument" as a uniform term for the mortgage, deed of trust, security deed or any other security instrument. This is consistent with the FNMA/FHLMC mortgages and is necessary for uniformity.

3. *Note changes.* The uniform note provisions cover prepayment rights and late charges. Current HUD forms cover these items in the mortgage rather than the note. Placement in the note is reasonable and consistent with the FNMA/FHLMC forms since these items relate to the debt rather than the security. The note provisions which would be changed by the proposed requirements are mainly a matter of revised format and organization. Also, HUD is considering changing the late charge provision to be consistent with current industry practice. At such time as HUD decides to adopt a change, notice will be published in the Federal Register.

4. *Mortgage insurance premium.* Uniform mortgage provision 2 permits use of the same form whether the MIP is collected in a lump sum or through periodic payments. Current HUD practice requires use of different forms for the different MIP collection methods.

5. *Personal property (chattels).* The proposed requirements adopt the FNMA/FHLMC approach towards including tangible personal property as part of the security. Only property which would be a fixture under applicable law is included. Current HUD forms are inconsistent on this point and many have "chattel clauses" which include extensive lists of equipment and other personal property which might not be fixtures.

6. *Uninsured mortgage.* The proposed requirements omit one provision which appears in all current HUD-approved mortgages. The provision permits acceleration if the mortgage is not insured within a certain period (generally the period is a blank to be filled in by the mortgagee). This provision has not been used by mortgagees and is obsolete. Historically, the provision served a purpose when national banking associations were restricted as to the amount of uninsured real estate loans they could make in relation to their capital and surplus. There is no longer such a restriction either for national banks or for federal savings banks.

7. *Sale to person without approved credit.* The proposed requirements include, in the body of the mortgage, a due-on-sale clause designed to restrict sales to persons without approved credit. None of the current approved forms contain a due-on-sale clause, but all mortgagees were required by Mortgagee Letter 86–15 to add the clause to the forms. The language of the required due-on-sale clause was modified by Mortgagee Letter 88–2 to comply with section 407 of the Housing and Community Development Act of 1987. The language required by Mortgagee Letter 88–2 is modified slightly by the proposed requirements.

8. *Limitation on acceleration and foreclosure.* Uniform mortgage provision 9 contains an incorporation by reference of the regulations that will usually restrict a mortgagee's ability to accelerate and foreclose immediately upon default by the mortgagor. The regulations would restrict a mortgagee regardless of the mortgage language, but HUD believes that the regulation represent a major policy of the insurance programs and, therefore, should be incorporated.

9. *Mortgagee advances and foreclosure costs.* Mortgagees would be allowed to demand immediate repayment, with interest at the note rate until repayment, of mortgagee advances and reasonable and customary foreclosure costs. Current HUD forms are inconsistent in this area; while most clearly permit such items to be added to the secured debt, many do not address the questions of interest and timing of repayment. Some current forms contain specific limitations on fees and costs in the event of foreclosure. We have concluded that it is not feasible to set uniform limitations, and the proposed requirements permit the mortgage to provide for "reasonable and customary" attorney's and trustee's fees. HUD may set standards for maximum fees.

10. *Mortgagee in possession and assignment of rents.* Instead of the widely varying language now appearing in HUD forms, a uniform approach taken from the FNMA/FHLMC forms would be required.

11. *New provisions for mortgagor's information.* The uniform mortgage provisons include two items not in any current HUD form in order to better inform mortgagors. The borrower's right to reinstatement as provided in 24 CFR 203.608 is repeated in the mortgage. The borrower is given an express right to receive a copy of the note and mortgage, as in the FNMA/FHLMC forms.

As indicated in the preceding discussion, there is a large amount of consistency between the proposed HUD requirements and FNMA/FHLMC forms. HUD has attempted to minimize differences where not required by established HUD policy. Nevertheless, sufficient differences exist to preclude use of a FNMA/FHLMC form with a short, simple rider containing HUD requirements. Of the 18 uniform convenants which make up pages 2 and 3 of the FNMA/FHLMC mortgage forms, only 4 could be used without any change. Several uniform covenants are not suitable at all for HUD policy reasons, and the remaining ones would need such substantial adaptation that 10 HUD uniform covenants covering some of the same ground are proposed instead.

On the other hand, the proposed HUD requirements are intended to be compatible with pages 1 and 4 of the FNMA/FHLMC forms, with minor changes such as addition of the FHA case number on page 1 and renumbering of paragraphs on page 4. Lenders could choose to comply with HUD requirements by starting with the relevant FNMA/FHLMC form, making extensive amendment of pages 2 and 3 through a rider, and making any other changes the lender might find necessary to conform to requirements of State law. This approach has some clear disadvantages over production of a completely new form, particularly extra recording costs for the rider, and impairment of readability for the typical borrower, and therefore HUD will permit, but not mandate, this approach.

Other Information

Each single family mortgage submitted for insurance would have to be in a form meeting the requirements in the Appendix unless the mortgages was executed within three months after the effective date of a final Notice. During the interim three month period, a mortgagee would be permitted to use either the existing HUD-approved forms or its own instruments meeting the requirements in the Appendix. Upon implementation of the new

requirements, HUD will identify one or more HUD offices which will be available to clarify or aid in interpretation of the requirements. HUD field offices will not be authorized to approve instruments used by mortgagees or to change provisions in the instruments. Therefore, mortgagees should not seek advance approval either at Headquarters or in the field offices before submitting executed mortgages to be insured.

Mortgagees must certify that each insured mortgage complies with HUD requirements, whether the mortgagee develops its own instruments or obtains them from some other source. This policy is set forth for direct endorsement cases in 24 CFR 200.163(c) and for prior approval cases in Mortgagee Letter 87–12. Violation of the HUD requirements may result in withdrawal of approval to participate in the Direct Endorsement Program pursuant to 24 CFR 200.164(h) or administrative action by the Mortgagee Review Board pursuant to 24 CFR 25.9(j). Also, since section 203(e) of the National Housing Act (12 U.S.C. 1709(e)) does not prevent the Department from contesting the validity of a contract of insurance in the event of misrepresentation on the part of a mortgagee, a mortgagee which falsely certifes that a mortgage meets HUD requirements may have an insurance claim denied.

The Department would not expect to consider requests for any variation from the mandatory uniform language in the absence of convincing evidence that the required language prevents a mortgagor or mortgagee from complying with applicable state law. In its approved forms HUD has not ordinarily prevented compliance with matters of state law or practice which were not in conflict with regulations or basic objectives of the insurance programs and the proposed requirements are intended to continue that approach. We recognize that state law may impose requirements upon a mortgagor or mortgagee beyond those stated in the uniform language, but the Department is not aware of any incompatibility between its proposed mandatory uniform language and state requirements which would prevent compliance with the latter. We welcome comments on any such incompatibility.

If the Department decides to adopt the proposed policy described in this Notice and the Appendix, after consideration of public comments, a final Notice will be published together with a final rule making necessary changes to 24 CFR 203.17 and other similar single family regulations. Those regulations would be reworded to clarify that compliance with HUD mortgage instrument requirements, rather than use of HUD-approved forms, would be mandatory since HUD would no longer approve actual forms.

This Notice is exempt from the requirements of the National Environmental Policy Act under 24 CFR 50.20(k).

Dated: June 7, 1988.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

APPENDIX—Requirements for Single Family Mortgage Instruments

Index:

Part I—General Instructions

A. The term "mortgage" as used below includes any form of security instrument commonly used in a jurisdiction in connection with loans secured by a one- to four-family residential property. The term "note" as used below includes any form of credit instrument commonly used in a jurisdiction to evidence such loans.

B. HUD will not provide mortgage and note forms for use with its single family mortgage insurance programs. A mortgagee must develop or procure mortgage and note forms which comply in form and substance with both these requirements and all applicable state and local requirements for a recordable and enforceable mortgage and an enforceable note, which must be a negotiable instrument. The mortgage and note must be separate documents.

C. A mortgagee must include verbatim in each mortgage and note the uniform provisions which are designated as mandatory and are set forth, respectively, in Parts II. B. and III. of this Appendix. Any acceleration and foreclosure by the mortgagee can be based only on breach of these uniform provisions, subject to certain exceptions specifically provided for in these requirements.

D. Parts II. A., II. C. and III. describe additional provisions that must be included in the mortgage or note with some permitted variation in language as well as optional provisions that may be included at the discretion of the mortgagee. No other provisions may be included that affect the rights or obligations of mortgagors except for provisions needed to comply with requirements of state and local law. In particular, the mortgage and note must not contain any provisions that restrict the transferability of the property or that alter the obligations of a mortgagor if the property is transferred, except as provided in Part II. B., Paragraph 9 or in Part IV.A., Paragraph 8 of these requirements. The mortgage or note must not include any requirements not required by HUD that operate to impose any obligation on a successor or assign of the mortgagee, unless HUD has expressly agreed thereto. Additional provisions shall conform in style to these requirements and shall not be in substantive conflict with these requirements.

E. Provisions which appear in the note may also appear in the mortgage.

F. A mortgage or note may include the mortgagee's business name and/or logotype on the top of the form. Forms must be printed on 8½" × 11" letter-size paper, unless state law requires legal size. Pages should be numbered to reflect the total number of pages in the document, such as: Page 1 of 2, Page 2 of 2. Although layout and format are within the discretion of mortgagees, size and style of typeface or print should be similar to the FNMA/FHLMC mortgages and notes.

G. These requirements do not supersede HUD regulations. They are intended to supersede anything contained in HUD administrative issuances, such as Handbooks, Notices or Mortgagee Letters, that prescribes the form and content of a mortgage or note and conflicts directly with these requirements.

H. Some of the mortgage or note language required or permitted by these requirements may result in a mortgagor granting broad rights to a mortgagee while the exercise of those rights is limited by HUD regulations or administrative issuances. These requirements do not supersede any such limitations on mortgagees, and a mortgagee's rights under the mortgage and note may be exercised only in a manner consistent with all relevant HUD requirements. For example, notwithstanding language which might appear in the mortgage, a mortgagee's right to foreclose may be limited by 24 CFR 203.550(d), 203.554(a), 203.606(a), or 203.659(a), and its ability to collect fees and charges will be limited by 24 CFR 203.552.

I. HUD field offices have authority to impose additional requirements regarding mortgage and note provisions, for consistency with state laws appropriate to their jurisdictions, and to advise mortgagees, through a Circular Letter, of any such requirements.

Part II—Mortgage Provisions

A. Introductory Mortgage Provisions

The general form for the part of a mortgage preceding the numbered paragraphs is set forth below. Mortgagees must follow this form with such adaptation as may be necessary to conform to state or local requirements.

1. On the first page, the name of the state shall appear in the upper left corner, the appropriate title (mortgage, deed of trust, etc.) shall appear in boldface type and be centered at the top, and the FHA case number shall appear in the upper right corner.

2. The first paragraph of the mortgage shall contain:

a. The date, which shall be the same as the date on the note;

b. An identification of the parties which clearly indicates which parties will be referred to as "Lender" and "Borrower" in the rest of the text;

c. An indication that the instrument will be referred to as "Security Instrument" in the rest of the text;

d. A reference to the note which clearly indicates the meaning of "Note" as used in the rest of the text. The date, maturity date and principal amount of the note must be stated;

e. A "granting" clause conforming to local usage; and

f. A statement that the mortgage is an Adjustable Rate Mortgage (ARM), Graduated Payment Mortgage (GPM) or Growing Equity Mortgage (GEM), if applicable.

The first paragraph of the FNMA/FHLMC mortgage for the appropriate jurisdiction may be used to comply with items 2.a.–e.

3. The second paragraph of the mortgage shall contain a description of property covered by the mortgage.

a. The description of a property must include a legal description (for example, by block and lot number or by metes and bounds) taken from the deed, and street address, if any.

b. The description of the property must indicate if the mortgagor's interest in the property, in whole or in part, consists of a leasehold estate instead of a fee simple estate, and the lease must be identified. With regard to a condominium property, the mortgagor's undivided interest in the common elements must be identified.

c. The property description shall end with the following paragraph:

Together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

d. If a habendum clause is used for mortgages in the jurisdiction, the phrase "together with" in the preceding paragraph shall be preceded by the following: "To have and to hold this property unto Lender and Lender's successors and assigns, Forever,".

4. After the property description the mortgage shall state:

Borrower covenants that Borrower is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will generally defend the title to the Property against all claims and demands, subject to any encumbrances of record.

B. Uniform Mortgage Provisions

The mortgage must also contain the following uniform Paragraphs 1–10, excluding explanatory material in brackets:

1. *Payment of Principal, Interest and Late Charge.* Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and late charges due under the Note.

2. *Monthly Payments of Taxes, Insurance Premiums and Other Charges.* Borrower shall include in each monthly payment, together with the principal and interest as set forth in the Note and any late charges, an installment of any (a) taxes and special assessments levied or to be levied against the Property, (b) leasehold payments or ground rents on the Property, and (c) premiums for insurance required by Paragraph 4.

Each monthly installment for items (a), (b) and (c) shall equal one-twelfth of the annual amounts, as reasonably estimated by Lender, plus an amount sufficient to maintain an additional balance of not more than one-sixth of the estimated amounts. The full annual amount for each item shall be accumulated by Lender within a period ending one month before an item would become delinquent. Lender shall hold the amounts collected in trust to pay items (a), (b) and (c) before they become delinquent.

If the total of the payments made by Borrower for item (a), (b) or (c) exceeds the amount of payments actually made by Lender for item (a), (b) or (c), respectively, and if payments on the Note are current, then Lender shall either refund the excess to Borrower or credit the excess to subsequent payments by Borrower, at the option of Borrower. If the total of the payments made by Borrower for item (a), (b) or (c) is insufficient to pay the item when due, then Borrower shall pay to Lender any amount necessary to make up the deficiency on or before the date the item becomes due.

As used in this Security Instrument, "Secretary" means the Secretary of Housing and Urban Development or his or her designee. Most Security Instruments insured by the Secretary are insured under programs which require advance payment of the entire mortgage insurance premium. If this Security Instrument is or was insured under a program which did *not* require advance payment of the entire mortgage insurance premium, then each monthly payment shall also include either: (i) An installment of the annual mortgage insurance premium to be paid by Lender to the Secretary, or (ii) a monthly charge instead of a mortgage insurance premium if this Security Instrument is held by the Secretary. Each monthly installment of the mortgage insurance premium shall be in an amount sufficient to accumulate the full annual mortgage insurance premium with Lender one month prior to the date the full annual mortgage insurance premium is due to the Secretary, or if this Security Instrument is held by the Secretary, each monthly charge shall be in an amount equal to one-twelfth of one-half percent of the outstanding principal balance due on the Note.

If Borrower tenders to Lender the full payment of all sums secured by this Security Instrument, Borrower's account

shall be credited with any balance remaining for all installments for items (a), (b) and (c) and any mortgage insurance premium installment that Lender has not become obligated to pay to the Secretary, and Lender shall promptly refund any excess funds to Borrower. Immediately prior to a foreclosure sale of the Property or its acquisition by Lender, Borrower's account shall be credited with any balance remaining for all installments for items (a), (b) and (c).

3. *Application of Payments.* All payments under Paragraphs 1 and 2 shall be applied by Lender as follows:

First, to the mortgage insurance premium to be paid by Lender to the Secretary or to the monthly charge by the Secretary instead of the monthly mortgage insurance premium, unless Borrower paid the entire mortgage insurance premium when this Security Instrument was signed;

Second, to any taxes, special assessments, leasehold payments or ground rents, and fire, flood and other hazard insurance premiums, as required;

Third, to interest due under the Note;

Fourth, to amortization of the principal of the Note;

Fifth, to late charges due under the Note.

4. *Fire, Flood and Other Hazard Insurance.* Borrower shall insure all improvements on the Property, whether now in existence or subsequently erected, against any hazards, casualties, and contingencies, including fire, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. Borrower shall also insure all improvements on the Property, whether now in existence or subsequently erected, against loss by flood to the extent required by the Secretary. All insurance shall be carried with companies approved by Lender. The insurance policies and any renewals shall be held by Lender and shall include loss payable clauses in favor of, and in a form acceptable to, Lender.

In the event of loss, Borrower shall give Lender immediate notice by mail. Lender may make proof of loss if not made promptly by Borrower. Each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender, instead of to Borrower and to Lender jointly. All or any part of the insurance proceeds may be applied by Lender, at its option, either (a) to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order provided in Paragraph 3, and then to prepayment of principal, or (b) to the restoration or repair of the property damaged. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments which are referred to in Paragraph 2, or change the amount of such payments. Any excess insurance proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

In the event of foreclosure of this Security Instrument or other transfer of title to the Property that extinguishes the indebtedness, all right, title and interest of Borrower in and to any insurance policies in force shall pass to the purchaser.

5. *Preservation and Maintenance of the Property.* Borrower shall not commit waste or destroy, damage or substantially change the Property or allow the Property to deteriorate, reasonable wear and tear excepted. Lender shall inspect Property if the Property is vacant or abandoned and the loan is in default. Lender shall take reasonable action to protect and preseve such vacant or abandoned Property if such action does not constitute an illegal trespass.

6. *Charges to Borrower and Protection of Lender's Rights in the Property.* Borrower shall pay all governmental or municipal charges, fines and impositions that are not included in the monthly payments as set forth in Paragraph 2. Borrower shall pay these obligations on time directly to the entity which is owed the payment. If failure to pay would adversely affect Lender's interest in the Property, upon Lender's request Borrower shall promptly furnish to Lender receipts evidencing these payments.

If Borrower fails to make these payments or the payments required by Paragraph 2, or fails to perform any other covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, for condemnation or to enforce laws or regulations), then Lender may do and pay whatever is necessary to protect the value of the Property and Lender's rights in the Property, including payment of taxes, hazard insurance and other items mentioned in Paragraph 2.

Any amounts disbursed by Lender under this Paragraph shall become an additional debt of Borrower and be secured by this Security Instrument. These amounts shall bear interest from the date of disbursement, at the Note rate, and at the option of Lender, shall be immediately due and payable.

7. *Condemnation.* The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in place of condemnation, are hereby assigned and shall be paid to Lender to the extent of the full amount of the indebtedness that remains unpaid under the Note and this Security Instrument. Lender shall apply such proceeds to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order provided in Paragraph 3, and then to prepayment of principal. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments, which are referred to in Paragraph 2, or change the amount of such payments. Any excess proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

8. *Borrower's Copy.* Borrower shall be given one conformed copy of the Note and this Security Instrument.

9. *Grounds for Acceleration of Debt.*

a. *Default.* Lender may, except as limited by regulations issued by the Secretary, require immediate payment in full of all sums secured by this Security Instrument if:

(i) Borrower defaults by failing to pay in full any monthly payment required by this Security Instrument prior to or on the due date of the next monthly payment, or

(ii) Borrower defaults by failing, for a period of thirty days, to perform any other obligation contained in Paragraphs 1 through 7 of this Security Instrument.

b. *Sale Without Credit Approval.* Lender shall, with the prior approval of the Secretary, require immediate payment in full of all sums secured by this Security Instrument if:

(i) All or a part of the Property is sold or otherwise transferred (other than by devise, descent or operation of law) by the Borrower,

(ii) The sale or other transfer is pursuant to a contract of sale (or by deed, if there is no contract of sale), executed not later than 12 months (24 months if the Property is not the principal or secondary residence of the Borrower) after the date on which this Security Instrument is endorsed for insurance by the Secretary, and

(iii) The credit of the purchaser or grantee has not been approved in accordance with the requirements of the Secretary.

c. *No Waiver.* If circumstances occur that would permit Lender to require immediate payment in full, but Lender does not require such payment, Lender does not waive its rights with respect to subsequent events.

d. *Regulations of HUD Secretary.* In many circumstances regulations issued by the Secretary will limit Lender's rights to require immediate payment in full and foreclose if not paid. This Security Instrument does not authorize acceleration or foreclosure when not permitted by HUD regulations.

10. *Reinstatement.* Borrower has a right to reinstatement if Lender has required immediate payment in full because of Borrower's failure to pay an amount due under the Note or this Security Instrument. This right applies even after foreclosure proceedings are instituted. To reinstate the Security Instrument, Borrower shall tender to Lender in a lump sum all amounts required to bring Borrower's account current including, to the extent they are obligations of Borrower under this Security Instrument, foreclosure costs and reasonable and customary attorney's fees and expenses properly associated with the foreclosure proceeding. Upon reinstatement by Borrower, this Security Instrument and the obligations that it secures shall remain in effect as if Lender had not required immediate payment in full. However, Lender is not required to permit reinstatement if: (i) Lender has accepted reinstatement after the commencment of foreclosure proceedings within two years immediately preceding the commencment of a current foreclosure proceeding, (ii) reinstatement will preclude foreclosure on different grounds in the future, or (iii) reinstatement will adversely affect the priority of the mortgage lien.

C. Mortgage Provisions Following Uniform Provisions

1. Because of great variation among state legal requirements and practices, the uniform mortgage provisions do not cover post-default rights or obligations of the mortgagee other than the right to demand immediate full payment of the debt (acceleration), the right to inspect and preserve the property, and the obligation to permit reinstatement by the mortgagor. At a minimum, each mortgage shall set forth a paragraph numbered 11, titled "Foreclosure Procedure," which includes the mortgagee's right to a public sale of the property free and clear of the mortgage, including a power of sale if permissible under applicable state law. A provision should be used that is substantially the same as Paragraph 19 of the "non-uniform covenants" in the current approved FNMA/FHLMC mortgage form for the appropriate jurisdiction, to the extent consistent with HUD requirements. The mortgage should also preserve all rights to a deficiency judgment to the extent permitted by applicable state law. See Part IV. B., Paragraph 3 for reference to foreclosure procedures in Guam, the Virgin Islands and Puerto Rico. Refer to Paragraph 5 for requirements concerning deficiency judgments in specific states.

2. The mortgage shall set forth a paragraph numbered Paragraph 12, titled "Lender in Possession," which authorizes the mortgagee, upon acceleration of the mortgage or abandonment of the property, to take possession of the property and to receive an assignment of rents and security deposits, if any, and to collect such rents and security deposits. If state law prohibits a mortgagee from exercising these rights directly, the mortgage must provide for exercise of these rights through a receiver. A provision substantially the same as Paragraph 20 of the "non-uniform covenants" in the current approved FNMA/FHLMC mortgage form for the appropriate jurisdiction should be used.

3. The uniform provisions omit common "boilerplate" provisions designed to aid interpretation or clarify rights of each party, on subjects such as the manner of giving notice, interpretation of number and gender references, governing law, joint and several liability of successors and assigns, etc. The lender should include such provisions following Paragraph 12, and should use language substantially the same as Paragraphs 10, 11, 14 and 15 of the "uniform covenants" in the current approved FNMA/FHLMC mortgage forms. See Part IV.B., Paragraph 3 for additional language for Guam, the Virgin Islands and Puerto Rico.

4. The mortgage must identify any riders or other attachments to the mortgage.

5. To the full extent permitted by state law, the mortgage must include all waivers that are set forth in the paragraph titled "waivers" in the "non-uniform covenants" of the current approved FNMA/FHLMC mortgage form for the appropriate jurisdiction.

6. The mortgage may contain a provision to require the mortgagor, in the event of foreclosure, to pay costs and reasonable and customary attorney's fees and trustee's fees. Such fees and costs shall bear interest from the date of disbursement, at the note rate and, at the option of Lender, shall be immediately due and payable.

7. Each security deed or deed of trust granted to a trustee must provide for appointment of a substitute trustee, except in Colorado.

8. A mortgagee may include language substantially the same as other paragraphs from the "non-uniform covenants" of the current approved FNMA/FHLMC mortgage form for the appropriate jurisdiction to the extent that it is not in conflict with these requirements.

Part III—Note Provisions

The title "Note" shall be in boldface type and be centered at the top of the first page. The FHA case number and date (which shall be the same as the date on the mortgage) shall appear in the upper right corner. The name of the state shall appear in the upper left corner. The address or other property description shall be included at the top of the note, under the title, FHA number and state. In addition, the note must contain the following uniform Paragraphs 1–7, excluding explanatory material in brackets, and may include Paragraphs 8 and 9.

1. *Parties. Borrower* means each person signing at the end of this Note, and the person's successors and assigns. *Lender* means _____ and its successors and assigns.

2. *Borrower's Promise to Pay: Interest.* In return for a loan received from Lender, Borrower promises to pay the principal sum of _____ Dollars ($_____), plus interest, to the order of Lender. Interest will be charged on unpaid principal, from the date of disbursement of the loan proceeds by Lender, at the rate of _____ per cent (_____%) per year until the full amount of principal has been paid.

3. *Promise to Pay Secured.* Borrower's promise to pay is secured by a mortgage, deed of trust or similar security instrument that is dated the same date as this Note and called the "Security Instrument." That Security Instrument protects the Lender from losses which might result if Borrower defaults under this Note.

4. *Manner of Payment.*

a. *Time.* Borrower shall make a payment of principal and interest to Lender on the first day of each month beginning on _____, 19____. Any principal or interest remaining unpaid on the first day of _____, 20____, will be due on that date, which is called the maturity date.

b. *Place.* Payments shall be made at _____ or at such other place as Lender may designate in writing.

c. *Amount.* Each monthly payment of principal and interest will be in the amount of $_____. This amount will be part of a larger monthly payment, required by the Security Instrument, that shall be applied to principal, interest and other items in the order described in the Security Instrument.

[d. *Special features.* As explained in Part IV. A. of these requirements, the special features of adjustable rate, graduated payment or growing equity loans must be explained in an additional Subparagraph 4.d. which may be printed in the body of the note of incorporated by an addendum.]

5. *Borrower's Right to Prepay.* Borrower has the right to pay the debt evidenced by this Note, in whole or in part, without charge or penalty, on the first day of any month.

6. *Borrower's Failure to Pay.*

a. *Late Charge for Overdue Payments.* If Lender has not received the full monthly installment of principal and interest by the end of fifteen calendar days after the payment is due, Lender may collect a late charge in the amount of _____ per cent (____%) of the overdue amount of each payment. [An amount not exceeding four per cent (4%) shall be inserted by the mortgagee.]

b. *Default.* If Borrower defaults by failing to pay in full any monthly payment required by this Note prior to or on the due date of the next monthly payment, then Lender may, except as limited by regulations of the Secretary, require immediate payment in full of the principal balance remaining due and all accrued interest. Lender may choose not to exercise this option without waiving its rights in the event of any subsequent default. In many circumstances regulations issued by the Secretary will limit Lender's rights to require immediate payment in full. This Note does not authorize acceleration when not permitted by HUD regulations. As used in this Note, "Secretary" means the Secretary of Housing and Urban Development or his or her designee.

c. *Payment of Costs and Expenses.* If Lender has required immediate payment in full, as described above, Lender may require Borrower to pay costs and reasonable and customary attorney's fees for enforcing this Note. Such fees and costs shall bear interest from the date of disbursement at the same rate as the principal of this Note.

7. *Waivers.* Borrower and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require Lender to demand payment of amounts due. "Notice of dishonor" means the right to require Lender to give notice to other persons that amounts due have not been paid.

[Additional language, which may be included as paragraphs 8 and 9, is as follows:

8. *Giving of Notices.* Unless applicable law requires a different method, any notice that must be given to Borrower under this Note will be given by delivering it or by mailing it by first class mail to Borrower at the property address above or at a different address if Borrower has given Lender a notice of Borrower's different address.

Any notice that must be given to Lender under this Note will be given by mailing it by first class mail to Lender at the address stated in Paragraph 4.b. above or at a different address if Borrower is given a notice of that different address.

9. *Obligations of Persons under this Note.* If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. Lender may enforce its rights under this Note against each person individually or against all signatories together. Any one person signing this Note may be required to pay all of the amounts owed under this Note.

The following must appear at the end of the Note:

By SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Note.

_____(Seal)
Borrower

_____(Seal)
Borrower

[Lenders must also include any required or customary form of authentication.]

Part IV—Other Requirements

A. Special Situations

As special situations arise, additional language may be required for a mortgage and/or note. Mandatory requirements to be followed in special situations are set forth in this Part. Whenever additional language is to be added to required uniform mortgage or note provisions, the addition may be printed or typed in the body of the instrument or incorporated through use of a rider, addendum or similar document.

1. *Adjustable Rate Mortgage (ARM).* These instructions supersede the instructions in Attachment I to Mortgagee Letter 84–16.

a. Subparagraph 4.d. of the note shall be titled "Adjustable Rate." The text of the paragraph shall consist of Paragraphs 1–5 from the "Adjustable Rate Allonge Amending Note" in Attachment I (as amended by the Addendum to Mortgagee Letter 84–16), with the following modifications:

i. The term "Holder" shall be changed to "Lender."

ii. Paragraphs 1–5 from the Allonge shall be designated with small Roman numbers as i.—v.

iii. The first two sentences of Paragraph 1 from the Allonge shall be deleted and replaced with the following: "The interest rate and size of monthly payments set forth in Paragraphs 2. and 4.c. may change."

iv. All references in the Allonge to "amendment" of the note shall be deleted; instead, references shall be to Subparagraph 4.d. of the note, as applicable.

b. The following shall be added to the end of Paragraph 2 of the note: "The interest rate is subject to change after an initial period of _____ as set forth in Subparagraph 4.d."

c. The following shall be added to the end of Subparagraph 4.c. of the note. "The monthly payment amount is subject to change after an initial period of _____ as set forth in Subparagraph 4.d."

d. If the mortgage will not be placed in a GNMA pool, the note may contain optional language from Page 3 of Attachment I.

e. The mortgage shall contain a description of adjustments to the interest rate and payment amount if required by state law or as otherwise needed to ensure the enforceability and priority of the mortgage. Otherwise, the mortgagee may include such a description at its option. If a description is included, the mortgage must state: "In case of any conflict between this Security Instrument and Subparagraph 4.d. of the Note, Subparagraph 4.d. shall be the governing provision." However, nothing should be included in the mortgage that conflicts with Subparagraph 4.d. of the note or 24 CFR 203.49.

2. *Graduated Payment Mortgage (GPM).* These instructions supersede the instructions in Handbook 4240.2 Revised Change, Appendix 4.

a. The following shall be added to the end of Paragraph 2 of the note: "Deferred interest shall be added to the principal balance monthly and shall

increase the principal balance to not more than $_____."

b. The first sentence of Subparagraph 4.c. of the note shall be changed to read as follows: "Each monthly payment of principal and interest shall be in the amount set forth in Subparagraph 4.d."

c. Subparagraph 4.d. of the note shall be titled "Graduated Payment." The payment schedule shall be set forth in Subparagraph 4.d. in the following form depending on the plan selected:

(for Plans I, II, III)	(for Plans IV, V)
SCHEDULE A	SCHEDULE A
$_____ during the 1st note year. _____ during the 2nd note year.. _____ during the 3rd note year.. _____ during the 4th note year.. _____ during the 5th note year.. _____ during the 6th note year, and thereafter.	$_____ during the 1st note year. _____ during the 2nd note year. _____ during the 3rd note year. _____ during the 4th note year. _____ during the 5th note year. _____ during the 6th note year. _____ during the 7th note year. _____ during the 8th note year. _____ during the 9th note year. _____ during the 10th note year. _____ during the 11th note year, and thereafter

d. The reference in the mortgage to the note, required by Subparagraph 2.d. of Part II. A. of this Appendix, shall include the following: "Deferral of interest may increase the principal balance to $_____." Notice that the amount entered is the maximum principal balance, not the amount by which the principal balance may be increased.

e. The mortgage shall contain a graduated payment schedule, consistent with the schedule set forth in Subparagraph 4.d. of the Note, if required by State law or as otherwise needed to ensure the enforceability and priority of the mortgage. Otherwise, the mortgagee may include such a schedule at its option. If such a schedule is included, the mortgage must state: "In case of any conflict between this Security Instrument and Subparagraph 4.d. of the Note, Subparagraph 4.d. shall be the governing provision." However, nothing shall be included in the mortgage that conflicts with Subparagraph 4.d. of the note or 24 CFR 203.45.

3. *Growing Equity Mortgage (GEM).* These instructions supersede the instructions in Attachment 5 to Mortgagee Letter 85-3.

a. The first sentence of Subparagraph 4.c. of the note shall be changed to read as follows: "Each monthly payment of principal and interest shall be in the amount set forth in Subparagraph 4.d."

b. Subparagraph 4.d. of the note shall be titled "Growing Equity." The payment schedule shall be set forth in Subparagraph 4.d. in the following form:
$_____ during the 1st note year
$_____ during the 2nd note year
$_____ during the 3rd note year
$_____ during the 4th note year
(continue this schedule for each of the remaining note years)

c. The mortgage shall contain a payment schedule, consistent with the schedule set forth in Subparagraph 4.d. of the Note, if required by State law or as otherwise needed to ensure the enforceability and priority of the mortgage. Otherwise, the mortgagee may include such a schedule at its option. If such a schedule is included, the mortgage must state: "In case of any conflict between this Security Instrument and Subparagraph 4.d. of the Note, Subparagraph 4.d. shall be the governing provision." However, nothing should be included in the mortgage that conflicts with Subparagraph 4.d. of the note or 24 CFR 203.47.

4. *Rehabilitation Loans* (Section 203(k) of the National Housing Act). The uniform mortgage provisions set forth in Part II. B must be modified for a Rehabilitation Loan. Mortgagees must follow the instructions in Handbook 4240.4, Paragraph 1-12 and Appendix 4, except that the term "mortgage" should be changed to "Security Instrument."

5. *Condominiums.* Except as specifically provided in this Paragraph, a mortgagee shall not require special language in the mortgage or the note for condominiums. The FNMA/FHLMC Multistate Condominium Rider shall not be used or an insured mortgage.

a. These instructions do not supersede the instructions in Handbook 4265.1, except as follows: (i) The provisions in Paragraph 4-2 of the Handbook shall not be added to the mortgage and note, and (ii) the "Resolution of Inconsistency" in Paragraph 12-8 (10) shall not be contained in the mortgage.

b. The following shall be added to the end of Paragraph 4 of the mortgage: "So long as the Condominium Owners' Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy insuring all property subject to the condominium documents, including all improvements now exisiting or hereafter erected on the mortgaged premises, and such policy is satisfactory to Lender and provides insurance coverage in the amounts, for the periods, and against the hazards Lender requires, including fire and other hazards included within the term "extended coverage," and loss by flood, to the extent required by the Secretary, then: (i) Lender waives the provision in Paragraph 2 of this Security Instrument for the monthly payment to Lender of one-twelfth of the yearly premium installments for hazard insurance on the Property, and (ii) Borrower's obligation under this Paragraph 4 to maintain hazard insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Condominium Owners' Association policy. Borrower shall give Lender prompt notice of any lapse in required hazard insurance coverage and of any loss occurring from a hazard. In the event of a distribution of hazard insurance proceeds in lieu of restoration or repair following a loss to the Property, whether to the condominium unit or to the common elements, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender for application to the sums secured by this Security Instrument, with any excess paid to the entity legally entitled thereto."

c. The title, "Condominium Assessments," shall be added to the title of Paragraph 5 of the mortgage. The following shall be added at the end of Paragraph 5: "Borrower promises to pay Borrower's allocated share of the common expenses or assessments and charges imposed by the Condominium Owners' Association, as provided in the condominium documents."

6. *Cooperatives.* No special uniform language has, as yet, been devised for single family mortgages for use with cooperatives. The instructions in Handbook 4240.3, Paragraph 1-12, continue to apply for mortgages insured under section 203(n). A mortgagee should contact HUD for instructions for mortgages insured under section 213.

7. *Planned Unit Development (PUD).* Except as specifically provided in this Paragraph, a mortgagee shall not require special language in the mortgage or the note for a PUD. The FNMA/FHLMC Multistate PUD Rider shall not be used for an insured mortgage. If a homeowners' association exists which is empowered to impose mandatory assessments on the mortgaged property and to purchase a "master" or "blanket" insurance policy for property in the area covered by the homeowners' association, including residential units, then the following shall be added to the end of Paragraph 4 of the mortgage: "So long as the Owners' Association (or equivalent entity holding title to

common areas and facilities), acting as trustee for the homeowners, maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy insuring the property located in the PUD, including all improvements now existing or hereafter erected on the mortgaged premises, and such policy is satisfactory to Lender and provides insurance coverage in the amounts, for the periods, and against the hazards Lender requires, including fire and other hazards included within the term "extended coverage," and loss by flood, to the extent required by the Secretary, then: (i) Lender waives the provision in Paragraph 2 of this Security Instrument for the monthly payment to Lender of one-twelfth of the yearly premium installments for hazard insurance on the Property, and (ii) Borrower's obligation under this Paragraph 4 to maintain hazard insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners' Association policy. Borrower shall give Lender prompt notice of any lapse in required hazard insurance coverage and of any loss occurring from a hazard. In the event of a distribution of hazard insurance proceeds in lieu of restoration or repair following a loss to the Property or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender for application to the sums secured by this Security Instrument, with any excess paid to the entity legally entitled thereto."

8. *Tax-exempt Financing.* A memorandum dated July 8, 1987, from Assistant Secretary Thomas T. Demery to HUD Field Offices permits the mortgage to contain an addendum setting forth a due-on-sale clause concerning tax-exempt financing. The due-on-sale provision may be used whenever the mortgage loan is funded, directly or indirectly, from proceeds of Qualified Mortgage Bonds (QMBs) issued by a state or local agency. The provision may be attached as an addendum to the mortgage, or it may be included in the body of the mortgage after the uniform provisions.

The addendum, which is set forth as Attachment I to the July 8, 1987, memorandum, is revised to conform to the uniform mortgage provisions as follows:

Grounds for Acceleration for Tax-exempt Bond Financing

[Insert name of original lender]_____, or such of its successors or assigns as may by separate instrument assume responsibility for assuring compliance by the Borrower with the provisions of this [Paragraph or Addendum], may require immediate payment in full of all sums secured by this Security Instrument if:

(a) All or part of the property is sold or otherwise transferred (other than by devise, descent or operation of law) by Borrower to a purchase or other transferee:

(i) Who cannot reasonably be expected to occupy the property as a principal residence within a reasonable time after the sale or transfer, all as provided in section 143(c) and (i)(2) of the Internal Revenue Code; or

(ii) Who has had a present ownership interest in a principal residence during any part of the three-year period ending on the date of the sale or transfer, all as provided in section 143(d) and (i)(2) of the Internal Revenue Code (except that "100 per cent" shall be substituted for "95 per cent or more" where the latter appears in section 143(d)(1)); or

(iii) At an acquisition cost which is greater than 90 per cent of the average area purchase price (greater than 110 per cent for targeted area residences), all as provided in section 143(e) and (i)(2) of the Internal Revenue Code; or

(iv) Whose family income exceeds 115 per cent of applicable median family income (140 per cent for a family in a targeted area residence), all as provided in section 143(f) and (i)(2) of the Internal Revenue Code; or

(b) Borrower fails to occupy the property described in the Security Instrument without prior written consent of Lender or its successors or assigns described at the beginning of this [Paragraph or Addendum]; or

(c) Borrower omits or misrepresents a fact that is material with respect to the provisions of section 143 of the Internal Revenue Code in an application for this Security Instrument.

References are to the 1986 Internal Revenue Code in effect on the date of execution of the Security Instrument and are deemed to include the implementing regulations.

9. *Open-end Advances.* Nothing in these provisions is applicable to open-end advances. Relevant requirements are set forth in 24 CFR 203.44(h) and 234.70(h).

10. *Leaseholds.* If the mortgage is on a leasehold, the title, "Leasehold," shall be added to the title of Paragraph 5 of the mortgage. The following shall be added at the end of Paragraph 5: "If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and fee title shall not be merged unless Lender agrees to the merger in writing."

For instructions on a mortgage for the purchase of fee simple title from a lessor (Section 240 of the National Housing Act), see Handbooks 4000.2, Rev 1, Paragraph 2-42c and 4270.1 Rev. The instructions in Handbook 4270.1 Rev are not superseded by these requirements and the modifications to the mortgage shall be followed, except that the sample text of the mortgage used in Appendix 1 of the Handbook is superseded by the uniform mortgage provisions, and the terms used in the Leasehold Rider in Appendix 2 of the Handbook shall conform to the terms used in these requirements.

11. *Junior Mortgages to HUD—Section 235 and TMAP.* These instructions do not supersede the instructions in Handbook 4330.1 concerning junior mortgages to HUD to secure repayment of section 235 assistance. The form of junior mortgage shall be the mortgage approved by HUD for the jurisdiction before these requirements take effect, but modified as required by Paragraph 183 of Handbook 4330.1 (see Appendix 26 of the Handbook). No instructions concerning mortgages and notes for the Temporary Mortgage Assistance Payments (TMAP) program have yet been devised.

B. Special Requirements for Particular States and Localities

1. *Hawaiian Home Lands.* If the mortgage is on a Hawaiian Home Lands leasehold, the title, "Hawaiian Home Lands," shall be added to the title at the top of the first page of the mortgage. The following shall be substituted for the paragraph that sets forth requirements for mortgage insurance premiums, in Paragraph 2 of the mortgage: "If and so long as the Security Instrument is held by the Secretary, then in addition to the payment of the entire mortgage insurance premium when this Security Instrument was signed, Borrower shall pay a monthly service charge to the Secretary, in an amount equal to one-twelfth of one-half per cent of the outstanding principal balance due on the Note, computed without taking into account any delinquent payments, prepayments, agreements to postpone the payments, or agreements to recast the mortgage."

Requirements concerning leaseholds, which are provided in Part IV.A.10, are also applicable.

2. *Northern Mariana Islands.* These requirements are not applicable to the Commonwealth of the Northern Mariana Islands. Until further notice, existing HUD-approved mortgage and note forms shall continue to be used.

3. *Guam, the Virgin Islands and Puerto Rico.* Foreclosure procedure requirements, as set forth in Part II.C.1. of the Appendix should be followed for mortgages in Guam, the Virgin Islands, and Puerto Rico, except that the reference to Paragraph 19 of the FNMA/FHLMC "non-uniform covenants" should be changed to read Paragraph 18.

In Part II.C.3., Paragraph 13 should be included in the list of "boilerplate" Paragraphs 10, 11, 14 and 15 of the FNMA/FHLMC "uniform covenants" for Guam, the Virgin Islands, and Puerto Rico.

In addition, mortgages and notes in Puerto Rico shall be written in English and interlineated with Spanish in the same manner as the FNMA/FHLMC froms for Puerto Rico. A Spanish translation of language required by this Appendix may be obtained from HUD's Caribbean Office. Mortgagees must prepare the remainder of the mortgage and note in English with Spanish interlineation.

4. *Indian Reservations* (Section 248 of the National Housing Act). Mortgagees must attach the rider set forth in Mortgagee Letter 88–11, for use with a mortgage covering single family property located on Indian Reservations, pursuant to section 248 of the National Housing Act. The text of the rider must be modified to conform to the uniform mortgage provisions. Mortgagees must demonstrate, pursuant to 24 CFR 203.43h, that the Bureau of Indian Affairs, Department of the Interior, has approved the mortgage document with rider.

5. *Redemption Periods.*

a. *Iowa, North Dakota and Wisconsin.* Requirements concerning deficiency judgments are provided in Part II.C.1. of this Appendix. Iowa, North Dakota and Wisconsin are excepted from those requirements because these states permit short-term redemption periods after foreclosure if mortgagees waive their rights to deficiency judgments. Since it may be in the Department's interest to have a short-term redemption period, mortgages in these states shall contain provisions similar to those set forth in the "non-uniform covenants" of the current approved FNMA/FHLMC mortgage forms, in Paragraph 23 for Iowa and 22 for North Dakota and Wisconsin. In addition, the North Dakota mortgage must include in the title the words "short term mortgage redemption," in boldface type.

b. *New Mexico and South Dakota.* New Mexico and South Dakota provide for short-term redemption periods without requiring a mortgagee to waive any right to a deficiency judgment. Mortgages for these states shall contain a provision similar to those set forth in the "non-uniform covenants" of the current approved FNMA/FHLMC mortgage forms, in Paragraph 22 for New Mexico and immediately before Paragraph 20 for South Dakota.

6. *Plain English Requirements.* Certain states have plain English or plain language requirements that may apply to portions of a mortgage or note not prescribed by HUD. Hawaii Rev. Laws § 487A–1 and N.Y. General Obligations Law § 5–702 (McKinney 1987) contain plain English requirements. Mortgagees are expected to comply with a state's plain English law, such as those in Hawaii and New York, with respect to the non-uniform provisions in both the mortgage and the note.

[FR Doc. 88–15046 Filed 7–5–88; 8:45 am]
BILLING CODE 4210–27–M

Federal Register

Wednesday
July 6, 1988

Part VII

Environmental Protection Agency

Regulatory Determination for Oil and Gas and Geothermal Exploration, Development and Production Wastes; Regulatory Determination

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3403-9]

Regulatory Determination for Oil and Gas and Geothermal Exploration, Development and Production Wastes

ACTION: Regulatory determination.

SUMMARY: Section 3001(b)(2)(B) of the Resource Conservation and Recovery Act (RCRA) requires the Administrator to determine whether to promulgate regulations under RCRA Subtitle C for wastes from the exploration, development, and production of crude oil, natural gas, and geothermal energy. The Adminstrator must make this determination no later than six months after completing a Report to Congress on these wastes and after providing an opportunity for public comment. The Agency has completed these activities and has decided that regulation under RCRA Subtitle C is not warranted. Rather, EPA will implement a three-pronged strategy to address the diverse environmental and programmatic issues posed by these wastes by: (1) Improving Federal programs under existing authorities in Subtitle D of RCRA, the Clean Water Act, and Safe Drinking Water Act; (2) working with States to encourage changes in their regulations and enforcement to improve some programs; and (3) working with Congress to develop any additional statutory authorities that may be required.

FOR FURTHER INFORMATION CONTACT: For further information on the regulatory determination, contact the RCRA/Superfund hotline at (800) 424-9346 (toll free) or (202) 382-3000.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Summary

This action presents the Agency's regulatory determination required by section 3001(b)(2)(B) of the Resource Conservation and Recovery Act (RCRA) for drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy. RCRA requires the Administrator to determine either to promulgate regulations under Subtitle C for wastes from oil, gas, and geothermal exploration, development, and production, or that such regulations are unwarranted. In making this determination, the Administrator is required to utilize information developed and accumulated by the Agency pursuant to a study required under RCRA section 8002(m). The Agency completed this study and published its results in December, 1987 in a Report to Congress entitled "Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy."

In completing the Report to Congress and this determination, EPA gathered and evaluated information on all of the issues raised in section 8002(m), including three key factors pertaining to wastes from the exploration, development, and production of oil, gas, and geothermal energy: (1) The characteristics, management practices, and resulting impacts of these wastes on human health and the environment; (2) the adequacy of existing State and Federal regulatory programs; and (3) the economic impacts of any additional regulatory controls on industry.

In considering the first factor, EPA found that a wide variety of management practices are utilized for these wastes, and that many alternatives to these current practices are not feasible or applicable at individual sites. EPA found that oil, gas, and geothermal wastes originate in very diverse ecologic settings and contain a wide variety of hazardous constituents. EPA documented 62 damage cases resulting from the management of these wastes, but found that many of these were in violation of existing State and Federal requirements.

As to the second factor, EPA found that existing State and Federal regulations are generally adequate to control the management of oil and gas wastes. Certain regulatory gaps do exist, however, and enforcement of existing regulations in some States is inadequate. For example, some States have insufficient controls on the use of landfarming, roadspreading, pit construction and surface water discharge practices. Some States lack sufficient controls for central disposal and treatment facilities and for associated wastes.[1] The existing Federal standards under Subtitle D of RCRA provide general environmental performance standards for disposal of solid wastes, including oil, gas, and geothermal wastes, but these standards do not fully address the specific concerns posed by oil and gas wastes. Nevertheless, EPA has authority under Subtitle D to promulgate more tailored criteria. In addition, the authorities available under the Clean Water Act (CWA) or Safe Drinking Water Act (SDWA) can be more broadly utilized, and efforts are already underway to fill gaps under these programs.

EPA's review of the third factor found that imposition of Subtitle C regulations for all oil and gas wastes could subject billions of barrels of waste to regulation under Subtitle C as hazardous wastes and would cause a severe economic impact on the industry and on oil and gas production in the U.S. Additionally, because a large part of these wastes is managed in off-site commercial facilities, removal of the exemption could cause severe short-term strains on the capacity of Subtitle C Treatment, Storage, and Disposal Facilities (TSDFs), and a significant increase in the Subtitle C permitting burden for State and Federal hazardous waste programs.

As explained in more detail in Section IV of this notice, EPA found that regulation under Subtitle C presents several serious problems. First, Subtitle C contains an unusually large number of highly detailed statutory requirements. It offers little flexibility to take into account the varying geological, climatological, geographic, and other differences characteristic of oil and gas drilling and production sites across the country. At the same time, it does not provide the Agency with the flexibility to consider costs when applying these requirements to oil and gas wastes.

[1] Associated wastes are those wastes other than produced water, drilling muds and cutting, and rigwash that are intrinsic to exploration, development and production of crude oil and natural gas. See Section II D below

Consequently, EPA would not be able to craft a regulatory program to reduce or eliminate the serious economic impacts that it has predicted. Furthermore, since existing State and Federal programs already control oil and gas wastes in many waste management scenarios, EPA needs to impose only a limited number of additional controls targeted to fill the gaps in the existing programs. Subtitle C, with its comprehensive "cradle to grave" management requirement, is not well suited to this type of gap-filling regulation. EPA concluded that it would be more efficient and appropriate to fill the gaps by strengthening under the Clean Water Act and UIC programs and promulgating the remaining rules needed under RCRA under the less prescriptive statutory authorities set out in Subtitle D. This narrower approach would also reduce disruption of existing State and Federal control programs.

Thus, the Agency has decided not to promulgate regulations under Subtitle C for wastes generated by the exploration, development, and production of crude oil, natural gas, and geothermal energy for the following reasons:

(1) Subtitle C does not provide sufficient flexibility to consider costs and avoid the serious economic impacts that regulation would create for the industry's exploration and production operations;

(2) Existing State and Federal regulatory programs are generally adequate for controlling oil, gas, and geothermal wastes. Regulatory gaps in the Clean Water Act and UIC program are already being addressed, and the remaining gaps in State and Federal regulatory programs can be effectively addressed by formulating requirements under Subtitle D of RCRA and by working with the States;

(3) Permitting delays would hinder new facilities, disrupting the search for new oil and gas deposits;

(4) Subtitle C regulation of these wastes could severely strain existing Subtitle C facility capacity;

(5) It is impractical and inefficient to implement Subtitle C for all or some of these wastes because of the disruption and, in some cases, duplication of State authorities that administer programs through organizational structures tailored to the oil and gas industry; and

(6) It is impractical and inefficient to implement Subtitle C for all or some of these wastes because of the permitting burden that the regulatory agencies would incur if even a small percentage of these sites were considered Treatment, Storage and Disposal Facilities (TSDFs).

The Agency plans a three-pronged approach toward filling the gaps in existing State and Federal regulatory programs by:

(1) Improving Federal programs under existing authorities in Subtitle D of RCRA, the Clean Water Act, and Safe Drinking Water Act;

(2) Working with States to encourage changes in their regulations and enforcement to improve some programs; and

(3) Working with the Congress to develop any additional statutory authority that may be required.

EPA plans to revise its existing standards under Subtitle D of RCRA, tailoring these standards to address the special problems posed by oil, gas, and geothermal wastes and filling the regulatory gaps. Also, the Agency is moving ahead with improvements in its NPDES and UIC programs under the Clean Water Act and the Safe Drinking Water Act. EPA also plans to work with Congress to obtain any additional authorities that may be required. For example, Subtitle D of RCRA currently does not provide EPA with the authority to address treatment or transportation of wastes. Throughout the process of improving the Federal regulatory program, EPA will work closely with States to encourage improvements in their regulatory programs.

II. Background

Section 3001(b)(2)(A) of the Solid Waste Disposal Act of 1980 (Pub. L. 96–480), which amended the Resource Conservation and Recovery Act of 1976 (RCRA), prohibits EPA from regulating under RCRA Subtitle C "drilling fluids, produced waters, and other wastes associated with exploration, development, or production of crude oil or natural gas or geothermal energy" until at least 6 months after the Agency completes and submits to Congress a comprehensive study required by section 8002(m) (also added by the 1980 amendments). Section 8002(m) directs EPA to conduct

> [A] detailed and comprehensive study and submit a report on the adverse effects, if any, of drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy on human health and the environment, including, but not limited to, the effects of such wastes on humans, water, air, health, welfare, and natural resources and on the adequacy of means and measures currently employed by the oil and gas and geothermal energy drilling and production industry, Government agencies, and others to dispose of and utilize such wastes to prevent or substantially mitigate such adverse effects.

The study way to include an analysis of:

1. The sources and volumes of discarded material generated per year from such wastes;
2. Present disposal practices;
3. Potential danger to human health and the environment from surface runoff or leachate;
4. Documented cases that prove or have caused danger to human health and the environment from surface runoff or leachate;
5. Alternatives to current disposal methods;
6. The cost of such alternatives; and
7. The impact of those alternatives on the exploration for, and development and production of, crude oil and natural gas or geothermal energy.

The 1980 amendments also added section 3001(b)(2)(B), which requires the Administrator to make a "regulatory determination" regarding the waste excluded from RCRA Subtitle C regulation. Specifically, within 6 months after submitting the Report to Congress, and after the opportunity for public hearings and public comment on the report, the Administrator must "determine to promulgate regulations" under RCRA Subtitle C for oil, gas, and geothermal energy waste, "or that such regulations are unwarranted." Section 3001(b)(2)(C) also specifies that any new regulations under RCRA Subtitle C for the crude oil, natural gas, or geothermal energy industry would not take effect until authorized by an Act of Congress

EPA was required to complete the study and submit it to Congress by October 1982. In August 1985, the Alaska Center for the Environment sued the Agency for its failure to complete the study by the statutory deadline. EPA entered into a consent order obligating it to submit the final Report to Congress on or before August 31, 1987, and to make its regulatory determination by February 29, 1988. In April 1987, the court-ordered schedule was modified, extending the deadline or submittal of the final Report to Congress to December 31, 1987, and requiring the regulatory determination to be made by June 30, 1988. In accordance with this schedule, EPA completed the technical report on methodology in October 1986, the technical report on the waste sampling and analysis in January 1987, the interim report in April 1987, the draft report in August 1987, and the final report in December 1987.

EPA's Report to Congress, "Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy," was

transmitted to Congress on December 28, 1987. A notice announcing the availability of the report, as well as the dates and locations of public hearings, was published on January 4, 1988 (53 FR 82). EPA held public hearings on the report in Washington, DC on February 23, 1988; Denver, Colorado, on February 25, 1988; San Francisco, California, on March 1, 1988; Anchorage, Alaska, on March 3, 1988; and Dallas, Texas, on March 8, 1988. The comment period on the report closed on March 15, 1988.

EPA's Report to Congress provides information on all of the study areas mandated by RCRA section 8002(m). The Agency received approximately 150 written comments on the report and heard testimony at the hearings from 105 individuals. All individual comments and transcripts from the public hearings are available for public inspection in the docket. The docket also contains a summary of all the comments presented at the hearings or submitted in writing, along with EPA's response to these comments.

A. Technical Summary of Report to Congress

1. Definition of Exempt Wastes

Section 3001(b)(2)(A) exempts produced water, drilling fluids, and "other wastes associated" with the exploration, development, and production activities. These are general terms that do not identify all of the specific waste streams to be exempted and studied. For study purposes, EPA broadly defined the scope of the exemption for oil, gas, and geothermal energy wastes to include not only produced waters and drilling fluids, but also related wastes (referred to herein as "associated wastes"), generated during the exploration, development, and production of crude oil, natural gas, and geothermal energy resources. The Agency excluded from its study those wastes not uniquely associated with exploration, development, and production of crude oil and natural gas which are not exempt from Subtitle C regulation (e.g., used batteries and waste solvents).

For geothermal energy, the definition of drilling-related wastes was identical to that of crude oil and natural gas wastes. Exempt wastes unique to geothermal energy production operations included: Waste streams produced from materials passing through the turbine in dry-steam power generation; waste streams resulting from a geothermal energy fluid or gas that passed through the turbine in flashed-stream and binary power plants; waste streams resulting from the geothermal energy products passing through only the heat exchanger in binary operations or through the flash separator in the flash process; and most direct use waste streams. A more detailed description of the scope of the exemption and study appears in section IV.D. below.

2. Waste Quantities and Characterization

In the Report to Congress, EPA estimated that 361 million barrels of drilling waste were generated in 1985 from about 70,000 crude oil and natural gas wells, and that over 800,000 active production sites generated 20.9 billion barrels (including produced water injected for enhanced oil recovery (EOR)) of produced water during that year. Associated waste, such as workover fluids and tank bottoms, are produced at the rate of 11 million barrels per year. For geothermal energy wastes, EPA estimated that approximately 111,000 barrels of geothermal energy-related drilling wastes were generated in 1985, along with 56 billion gallons of liquid wastes (geothermal fluid and condensed steam) from both binary and flash process plants, and 8 billion gallons of liquid waste from direct use of geothermal energy.

For crude oil and natural gas wastes, EPA sampled liquids and sludges from several locations. Drilling fluids were sampled at drilling operations while produced water and tank bottoms were sampled at production operations. Samples from central treatment and disposal facilities and central pits contained mixtures of all wastes including associated wastes. The Agency found that organic pollutants at levels of potential concern (levels that exceed 100 times EPA's health-based standards) included the hydrocarbons benzene and phenanthrene. Inorganic constituents at levels of potential concern included lead, arsenic, barium, antimony, fluoride, and uranium.

Tank bottoms, an associated waste sampled and analyzed by the Agency, contained significant levels of contaminants of concern, with some levels exceeding the reference doses (RfDs) for noncarcinogens or the risk-specific doses (RSDs) for carcinogens (health-based standards) for these contaminants.[2]

Analysis of the constituents of several geothermal energy waste streams indicated that some of the production wastes exhibited the corrosivity characteristic and extraction procedure (EP) toxicity for certain metals. Factors such as management practices, dilution and attenuation of the contaminant, and hydrogeological characteristics, affect the risk to human health and the environment presented by these chemicals.

3. Current and Alternative Management Practices

A wide range of management practices are employed for crude oil and natural gas wastes. The technological diversity is the result of widely varying geological, climatological, ecological, topographic, economic, geographic, and age differences among drilling and production sites across the country and partially account for varying State regulatory requirements. There are, however, variations from State to State in the stringency of management practices which are not wholly attributable to the varying physical settings of the operations.

Current practices include the use of reserve pits for drilling wastes; landspreading of reserve pit contents; disposal of produced waters through Class II underground injection wells; disposal of produced water in unlined pits; discharge of produced water to surface waters; roadspreading; use of commercial facilities for treatment and disposal of drilling wastes and produced water; and some practices unique to the Alaska North Slope, such as the use of semipermanent production-related reserve pits, and discharges to the tundra. Less frequently used current

[2] It is the Agency's policy to consider Maximum Contaminant levels (MCLs) (established by the Office of Drinking Water) when available. Where an MCL has not been developed, RfDs for noncarcinogens and RSDs for carcinogens will be used to set health-based limits. These terms are defined as follows:

- Maximum Contaminant Level (MCL) is the enforceable drinking water standard, based on health and technical feasibility, attained at the tap. This measure is used when ground water is the main exposure pathway.
- Reference Dose (RfD) is an estimate (with uncertainty spanning perhaps an order of magnitude) of a daily exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime." [Integrated Risk Information System (IRIS) Vol. 1, Supplementary Documentation Appendix A, EPA/600/8-86/032A.]
- Risk-Specific Dose (RSD) is the daily dose of a carcinogen received over a lifetime that will result in an incidence of cancer equal to the specific risk level. The risk level of A and B carcinogens is $10E^{-6}$ (1 in 1 million) and for C carcinogens it is $10E^{-5}$ (1 in 100,000). [51 FR 21867, June 13, 1986.] The classes of carcinogens are: Class A = human carcinogen, Class B = probable human carcinogen, Class C = possible human carcinogen. [Both RfDs and RSDs are converted into medium specific concentrations using intake assumptions for selected routes of exposure. They are expressed in mg/kg/day. Surface and ground water (ingestion): 2 liters/day for a 70-kg adult for a 70-year exposure. Air (inhalation): 20 cubic meters air/day for a 70-kg adult for a 70-year exposure.]

practices discussed in the report are closed-cycle drilling mud systems, annular disposal of produced water and drilling fluid, and trenching of reserve pits to dispose of reserve pit fluids.

These practices vary substantially in the protection they provide to the environment. While changes in State regulatory requirements over the years have led generally to the use of more environmentally protective technologies and management practices, there is a need for increased movement to more protective approaches for discharge to ephemeral streams, surface water discharges in estuaries in the Gulf Coast region, road applications of reserve pit contents and discharge to tundra in the Arctic, and annular disposal of produced waters.

For the major waste streams, EPA was unable to identify any new technologies in the research and development stage that offer promise for wide application in the near term. More widespread use of the best existing technologies, however, would provide substantial additional protection for the environment in many areas.

Waste management practices unique to geothermal power generation wastes include closed-cycle ponding, reinjection into the producing zone or a nonproducing zone, and consumptive secondary use. In California, production wastes are tested for hazardousness, using the California tests for hazardousness, before disposal to determine the appropriate disposal method. After direct use of geothermal energy fluid for heating purposes, these fluids can be discharged to surface waters, injected into the producing zone or a nonproducing zone, and consumed by secondary uses.

4. Evidence of Damages

To determine the types and severity of damages caused by crude oil and natural gas wastes, EPA assembled information on a substantial number of damage cases, 62 of which were fully documented and passed EPA's "tests of proof." These cases were based on recent information gathered from the States of Alaska, Arkansas, California, Kansas, Kentucky, Louisiana, Michigan, New Mexico, Ohio, Oklahoma, Pennsylvania, Texas, West Virginia, and Wyoming. These damage cases were extensively reviewed by the States, industry, and third parties. On the basis of all available information, the study found that wastes from crude oil and natural gas operations have endangered human health and caused environmental damage when managed in violation of State and Federal requirements. In some instances damage occurred where wastes are managed in accordance with currently applicable State and Federal requirements.

The major categories of wastes responsible for damages include reserve pit wastes, fracturing and acidizing fluids, stimulation chemicals, waste crude oil, produced water, and other miscellaneous wastes generated by the exploration, development, and production of crude oil and natural gas. The various categories of damages to, or endangerment of, human health and the environment contained in the Report to Congress include:

- Damage to agricultural land, crops, ephemeral streams, livestock, and threats to endangered species, fish, and other aquatic life in estuaries and bays from produced water and drilling fluids;
- Degradation of soil and ground water from runoff and leachate from central treatment and disposal facilities, reserve pits, and unlined disposal pits;
- Potential contamination of aquatic and bird life in estuaries and bays by metals and polycyclic aromatic hydrocarbons resulting from the discharge of drilling fluids and produced waters;
- Potential for endangerment of human health from consumption of contaminated fish and shellfish and from ground water contaminated by seepage from storage and disposal pits;
- Potential damage to tundra on the Alaska North Slope from roadspreading and seepage and discharges from reserve pits;
- Damage to ground water, agricultural land, and domestic and irrigation water caused by seepage of native brines from improperly plugged and unplugged abandoned wells; and
- Ground-water degradation from improper functioning of injection wells.

5. Risk Modeling

EPA used quantitative modeling and a review of the scientific literature to evaluate the health and environmental risks associated with management of oil, gas, and geothermal energy wastes in order to evaluate risks to human health and the environment under a variety of conditions. The Agency characterized selected major risk-influencing factors associated with current operations: Estimated the management of drilling waste in reserve pits, the underground injection of produced water, and the surface water discharge of produced water from stripper wells. The risk analysis did not consider annular disposal, storage of produced water in surface impoundments, migration of produced water contaminants through fractures, unplugged or improperly plugged and abandoned wells, landspreading, roadspreading, or disposal of associated wastes.

For the selected practices, EPA estimated distributions of these risk-influencing factors across the population of crude oil and natural gas facilities; evaluated these factors in terms of their relative effect on risks; and developed initial quantitative estimates of the possible range of baseline health and environmental risks for the variety of conditions found. Risks were analyzed under assumptions that were broadly consistent with baseline requirements of existing Federal and State programs.

For the specific subset of current practices, EPA modeled the potential effects of arsenic, benzene, boron, sodium, chloride, cadmium, chromium, and total mobile ions at concentrations observed in sampled produced water and drilling waste. The study focused heavily on ground water and indicated that, for the vast majority of the scenarios modeled, risks from the disposal of drilling waste in onsite reserve pits and the disposal of produced water by underground injection were small. Only a few chemicals from either source appear to be of major concern relative to health or environmental risk. The actual human health and environmental threats posed by any of these releases is largely dependent upon site-specific factors, including geophysical conditions and a site's proximity to human populations or sensitive ecosystems. Estimated impacts on human health varied widely, and there were typically a few combinations of environmental settings and high sample toxic constituent concentrations where moderate risks were projected. Quantitative risk modeling indicates the potential in some situations for carcinogenic risks in excess of 1 in 10,000 and sodium levels in drinking water in excess of recommended levels for public drinking water supplies. Modeling of resource damages to ground and surface water generally did not show significant risks at low release rates typical of individual stripper wells although multiple strippers discharging into common water courses were not modeled.

6. Costs and Economic Impacts

EPA developed three estimates of the compliance costs and economic impacts of implementing alternative waste management practices for the large-volume drilling wastes and produced waters in the crude oil and natural gas industries: (1) a "baseline" scenario reflecting current waste management practices; (2) an "intermediate" scenario, in which somewhat stricter

controls on waste disposal practices are assumed; and (3) a "Subtitle C" scenario, in which virtually full RCRA hazardous waste requirements would be met. EPA estimated total annual costs for each scenario and then evaluated the projected economic impacts of these costs on the oil industry as a whole.

Assuming produced waters reinjected for enhanced production would not be regulated, total annual costs for additional management requirements ranged from approximately $50 million to over $6.7 billion, depending on the scenario and on assumptions regarding the fraction of wastes (10 to 70 percent) that would be handled as RCRA-hazardous under each scenario. Estimated costs for the Subtitle C scenario ranged between $1 billion and $6.5 billion without including land-ban and corrective action costs.

Production declines related to these increased waste management costs could range up to 12 percent in the year 2000. Other impacts also varied greatly under different scenario assumptions. Net impacts on oil prices per barrel could range up to $0.76 per barrel, with projected maximum costs to consumers of $4.5 billion per year, and increases in the U.S. balance of payments deficit of up to $11 billion.

A significant part of any overall economic impact of new requirements would be their effects on stripper wells. Stripper operations (generally, wells producing 10 or fewer barrels of oil per day during the declining phase of their production cycle) cumulatively contribute about 14 percent of total domestic oil production. Generation of production wastes by strippers is more significant than would be expected, however, because many strippers produce very high ratios of water to oil. Many stripper operations are economically marginal and are thus highly sensitive to small fluctuations in market prices and cannot easily absorb additional costs for waste management. Stripper operations, therefore, constitute a special subcategory of the crude oil and natural gas industry and should be given special consideration when developing recommendations for improvements in the management of crude oil and natural gas wastes. At the same time, any additional regulations must recognize the great diversity that exists within the stripper industry. The nature of stripper operations is dependent on the volume of crude oil, natural gas and wastes generated, the age of the well, the technology in use, geological, environmental, and economic considerations, and types of ownership. For example, a family-owned stripper well in a century-old field in Appalachia bears little resemblance to a field of stripper wells owned by a single large petrochemical company in California. Regulations governing wastes generated by stripper wells must be tailored to meet this great diversity.

B. Legal Authority

Section 3001(b)(2)(B) of RCRA requires EPA to determine either to promulgate regulations under Subtitle C for oil, gas, and geothermal energy wastes, or that such regulations are "unwarranted." This section thus gives EPA broad discretion both to identify what factors to consider and to determine what balance of factors permit the conclusion that Subtitle C regulations are unwarranted.

EPA has concluded that its decision whether to regulate oil, gas and geothermal energy waste under Subtitle C should be based not just on whether that waste is hazardous (as currently defined by EPA regulations) but also on a consideration of the other factors section 8002(m) required EPA to study. The basis of this conclusion is the language of section 3001(b)(2)(B), which states that in making the regulatory determination "the Administrator shall utilize the information developed or accumulated pursuant to the study required under section 8002(m)." Clearly, Congress envisioned that the determination would be based on all the considerations stated in section 8002(m).

In reviewing sections 3001(b) and 8002(m), together with the legislative history of these provisions, EPA has concluded that Congress believed certain considerations to be particularly important to the regulatory determination. First, Congress instructed EPA to study the potential dangers to human health and the environment from oil, gas and geothermal energy waste, indicating that any decision to regulate under Subtitle C must be based on a finding of such danger. Second, section 8002(m) required EPA to study "the adequacy of means and measures currently employed by * * * Government agencies * * * to dispose of and utilize such wastes and to prevent or substantially mitigate such adverse effects." The section also permits EPA to review the actions of other Federal agencies, "with a view toward avoiding duplication of effort," and requires the Agency to include in its report of the study "recommendations for Federal and non-Federal actions concerning" the effects of oil, gas and geothermal energy wastes on health and environment. Thus, Congress was concerned that regulations under Subtitle C should not be promulgated "until further information is developed to determine whether a sufficient degree of hazard exists to warrant additional regulations and whether existing State or Federal programs adequately control such hazards." S. Rep. No. 172, 96th Cong., 1st Sess. (1979), at 6. Congress apparently believed that EPA should not impose Subtitle C regulation unless other programs could not adequately control any hazards identified.

In addition, Congress instructed EPA to analyze fully the disposal practices of the industry, including present practices, alternatives, the cost of alternatives, and the impact of alternatives on the exploration for, and development and production of, crude oil and natural gas and geothermal energy. Thus, EPA was required to consider the impact of Subtitle C regulations on existing hazardous waste facilities, and both the cost and impact of such regulations on the oil, gas and geothermal industries. Clearly, Congress believed that Subtitle C regulation would be unwarranted if it had severe impacts on the nation's future energy production capabilities.

C. Conclusions of the Report to Congress and Response to Comments

Based on the study done by EPA, the Report to Congress developed a number of initial general conclusions. Extensive comments were received on these conclusions. A summary of the comments and EPA's response follows each conclusion (underlined statements) below.

1. *Available waste management practices vary in their environmental performance.* Some individuals argued that since crude oil and natural gas operations very significantly across the country, Federal regulations could not be effectively enforced or applied, and would therefore not be beneficial. Other commenters focused on local issues and regional environmental problems, calling for increased Federal regulations to solve them. Still others observed that the crude oil and natural gas industry does not manage its "hazardous" wastes in the same manner as other industries manage similar hazardous wastes.

The Agency acknowledges that there are valid reasons for differences in practices among areas. This points to a need for individual, tailored regulations at the State and local level for the management of these wastes, rather than a RCRA Subtitle C program. The Agency also agrees, however, that there may be a need for minimum Federal standards covering basic waste management practices. The Agency agrees that because of the large volumes of these wastes, along with the other

factors discussed in the report, some crude oil and natural gas wastes require different disposal methods than may be used for management of wastes generated by other industries.

2. *Any program to improve management of oil and gas wastes in the near term will be based largely on technologies and practices in current use.* Commenters agreeing with this conclusion asserted that existing technologies are adequate and that new technologies would be economically infeasible and would serve no valid purpose. Others, especially those concerned with issues in Alaska, believe that many new technologies are available but seldom used and called for their increased use. A few State regulatory agencies called for increased technical assistance and guidance from EPA.

The Agency continues to believe that there are very few techniques that are not in use under some conditions. There is, however, a need to disseminate knowledge and encourage or perhaps require adoption of improved methods nationwide. States and the industry should continue to develop, refine, and encourage the implementation of new and improved waste management techniques.

3. *Increased segregation of waste may help improve management of oil and gas wastes.* Many commenters strongly opposed the proposal for segregation of wastes and believed that the scope of the exemption in RCRA section 3001 should be construed to include, and should be maintained for, all associated wastes in addition to the currently exempt large-volume wastes. Many commenters asserted that mixing various wastes with produced water prior to injection is environmentally safe and economically beneficial. Other commenters argued that each waste stream generated by the crude oil and natural gas industry should be tested separately to determine its RCRA characteristics and that wastes determined to be hazardous according to RCRA definitions should remain segregated and be disposed of according to RCRA regulations. Some individuals claimed that many hazardous wastes generated by the crude oil and natural gas industry are commingled with nonhazardous wastes prior to landspreading or injection, causing significant environmental damage.

The Agency believes that under certain circumstances waste segregation is technically and economically feasible and environmentally desirable.

4. *Stripper operations constitute a special subcategory of the oil and gas industry.* Many commenters strongly agreed with this conclusion, stating that new or additional Federal regulations would be financially harmful to already economically ailing stripper well operators. Other commenters were of the opinion that some stripper wells can cause significant environmental damage, which must ultimately be paid for through general taxes. Some commenters urged that stripper operations should be treated in the same manner as the rest of the crude oil and natural gas industry.

As previously described, the agency recognizes that many, though not all, stripper operations are economically vulnerable to any new regulatory burdens. Stripper wells in many parts of the country are also associated with smaller, independent oil and gas companies that do not have flexibility in pricing and may suffer disproportionate economic impacts from any additional regulation. The Agency is required under the Regulatory Flexibility Act to evaluate impacts of any new regulations on small business enterprises.

5. *Documented damage cases and quantitative modeling results indicate that, when managed in accordance with State and Federal requirements, exempt oil and gas wastes rarely pose significant threats to human health and the environment.* Opinion on this conclusion was sharply divided. Some commenters strongly agreed, saying that State regulations are fully adequate to control crude oil and natural gas operations and challenged the validity of a few selected damage cases. Others strongly opposed this conclusion, saying that State and Federal regulations are inadequate and seldom enforced. A number of commenters stated that many documented damage cases were omitted from the final Report to Congress. Some commenters provided studies and analytical data alleging environmental damage from crude oil and natural gas wastes; others claimed that the risk modeling conducted for the Report underestimated damage to the environment and did not adequately characterize the significance of human health risks from crude oil and natural gas wastes.

A number of comments were received on the quantitative risk modeling on which this conclusion is partly based. Criticisms included:

- The quantitative risk modeling should not have been performed at all because of the severe lack of suitable data.
- The risk analysis is fatally flawed because it used nonconservative assumptions.
- Values for input parameters used in the liner location model (LLM) have been developed on the basis of limited data, worst-case assumptions, or modeling limitations.
- The study underestimates toxicity because too much of the sampling was performed on diluted and weathered crude oil and natural gas wastes.
- Very few of the contaminants at the waste sites were analyzed.
- EPA made no effort to correlate its quantitative risk model with the actual damage cases.
- The health-based standards incorporated in the model are insufficiently documented.
- TCLP extractions used in risk modeling for reserve pits misrepresent conditions at pits.
- Risk is overestimated in the risk analysis.

The Agency believes the damage cases in the Report to Congress demonstrate that violations of existing State and Federal requirements lead to most observed damages, although some damages have been shown to result from practices currently allowable in some States. The risk assessment also showed little risk at most locations from the management practices that were analyzed. The Agency believes from the available evidence that State regulations are generally but not entirely adequate for management of crude oil and natural gas wastes. Additionally, enforcement of and compliance with State regulations vary widely from State to State.

With respect to the specific criticisms of the risk modeling, the Agency disagrees that the modeling should not have been performed because of a severe lack of suitable data. Extensive data were gathered from a variety of sources, including EPA field investigation and waste sampling study, numerous Federal and State agencies, an industry survey conducted by API, comments submitted on interim reports and given during peer review meetings, over 300 topographic maps, automated data bases, and a general literature review. The Agency believes these data are the best available and that they adequately support a risk assessment.

As with any detailed modeling study, a number of assumptions in the risk assessment had to be made, sometimes with respect to values used for model inputs. The Agency rejects the notion, however, that the assumptions made were generally worst-case, significantly nonconservative, or driven only by modeling limitations. For most variables, several realistic representative values were selected to evaluate a variety of circumstances. Whenever assumptions were made, best available data and

professional judgment were used and proposed approaches were subjected to peer review, and often outside public review. As noted in the above comments, some of the assumptions tended to result in either overestimates or underestimates of risk. While over- and underestimates are inevitable in any predictive modeling, the Agency believes their impacts on this study have been minimized by (1) analyzing risks under a wide range of conditions across the industry as a whole, in an attempt to even out over- and underestimates of risk for any single scenario; and (2) fully documenting each assumption and its likely effect on risk estimates.

The Agency disagrees that the waste characterization used in the risk assessment was inappropriate. Many of EPA's samples of drilling waste were taken from open reserve pits where the waste could have been "weathered", but these samples were not purposefully diluted and are believed to be representative of drilling waste as it exists in a reserve pit. Contrary to the above comment, *all* of the contaminants detected in drilling pit waste and produced water were reviewed and considered as candidates for the risk assessment. The eight constituents selected for quantitative modeling were the constituents judged most likely to contribute most significantly to risk to health or the environment. The selection of contaminants for quantitative modeling was based on their frequency of detection, concentration, inherent toxicity, and mobility and persistence in the environment. Finally, the Agency used TCLP extraction results only to model leachate from closed reserve pits (not from operating pits). While uncertainties concerning the applicability of TCLP tests to leachability of reserve pit wastes are acknowledged, the Agency believes the TCLP results were the best data available for modeling this leachate.

The Agency did not attempt to correlate the risk modeling with the damage cases because the risk assessment was intended to complement the damage cases by focusing on different issues. Specifically, the risk assessment analyzed potential current and future effects assuming compliance with a limited subset of typical existing regulations, whereas the damage cases covered past and current effects, many of which were for incidents involving regulatory violations. The risk assessment also focused on more subtle or very long-term impacts, some of which possibly would not be evidenced in the contemporary damage case file. In addition, several of the damage cases represented situations (e.g., releases through abandoned boreholes) that could not be modeled adequately given existing data and modeling techniques. Other scenarios not modeled include annular deposits, storage of produced water in surface impoundments, migration of produced water contaminants through fractures, and landspreading. (Use of impoundments for produced waters and landspreading are both still frequently practiced.)

The Agency believes that the health-based standards incorporated in the risk model incorporated the best available scientific knowledge at the time of the study. These standards and the studies that support them were summarized only briefly in the Report to Congress; readers are referred to the two-volume technical background report on risk assessment for more detail.[3]

6. *Damages may occur in some instances even where wastes are managed in accordance with currently applicable State and Federal requirements.* No comments specifically addressed this conclusion, but comments on the previous conclusion relate in part to the substance of this one.

The quantitative risk modeling showed that for the specific management practices and scenarios modeled, a few crude oil and natural gas sites (less than five percent) could pose significant risks even if drilling waste and produced water were managed in accordance with existing regulations. In addition, the damage case results indicate that some waste management practices permitted in some States can have undesirable environmental impacts. These practices include landspreading of high chloride drilling mud, annular disposal of produced water, discharge of produced water and drilling fluids to tidally affected wetlands, discharge of produced water to live streams, and discharge of reserve pit contents to tundra.

7. *Unplugged and improperly plugged abandoned wells can pose significant environmental problems.* Opinion on this conclusion was divided. Many of the commenters asserted that there is no evidence to support this conclusion, and that State regulations adequately address the potential problems associated with unplugged and improperly plugged and abandoned wells. Others felt that it is economically infeasible to plug or re-plug abandoned wells properly. Conversely, commenters agreeing with this conclusion mentioned specific instances in which unplugged wells have caused significant contamination of ground-water supplies. Some State regulatory agencies commented that inadequate funds are available to properly plug all abandoned wells.

The Agency believes there is adequate evidence to indicate a potential threat to ground water from unplugged and improperly plugged abandoned wells based on the large number of unplugged or improperly plugged abandoned wells, the difficulty in observing plugging of abandoned wells, and the difficulty in enforcing State regulations on plugging of abandoned wells. The damage cases collected and the information presented to the Agency support this conclusion. The Agency recognizes that the full extent of the problem is not well defined. The Agency also recognizes that high costs could be incurred if all unplugged or improperly plugged abandoned wells were required to be plugged, and that such a requirement may not be necessary, as not all unplugged or improperly plugged abandoned wells pose a problem.

8. *Discharges of drilling muds and produced waters to surface waters have caused locally significant environmental damage where discharges are not in compliance with State and Federal statutes and regulations or where NPDES permits have not been issued.* Comments were divided on this issue even among those who were critical of similar conclusions; some agreed, while others stated that there is no evidence that drilling muds or produced water cause environmental damage. Some stated that both drilling muds and produced water are relatively nonhazardous and nontoxic. Several comments specific to Alaska stated that the Clean Water Act adequately regulates the management of large-volume wastes in Alaska.

Those agreeing with this conclusion often argued that current State and Federal regulations are not adequate or are not enforced properly. They also asserted that drilling muds and produced waters contain RCRA hazardous constituents and have caused significant environmental damage.

Documented damage cases indicate that disposal of drilling muds and produced waters in violation of State regulations and where NPDES permits have not been issued, has clearly caused damages to the environment and endangered human health, particularly

[3] U.S. EPA, December 1987. Office of Solid Waste. Onshore Oil and Gas Exploration, Development and Production: Human Health and Environmental Risk Assessment.

in Alaska, the Gulf Coast and the Appalachian States. Also, discharges of produced water from stripper well to surface waters were estimated to cause cancer risks greater than one in one hundred thousand in roughly 17 percent of the conservative cases studied in the quantitative risk modeling for 90th percentile produced water constituent concentrations.

9. *For the nation as a whole, regulation of all oil and gas field wastes under unmodified Subtitle C of RCRA would have a substantial impact on the U.S. economy.* Those agreeing with this conclusion did so strongly, stating that RCRA regulations applied to the crude oil and natural gas industry would cause the loss of a significant number of jobs. Some said that RCRA regulation would increase oil imports and pose a threat to national security. Others claimed that the potential costs to industry have been underestimated.

Those in favor of regulating wastes determined to be RCRA-hazardous generally recognized the potential economic impacts of regulation, but nevertheless believed that such wastes should be disposed of consistent with RCRA Subtitle C requirements.

In specific comments on the methodologies used to analyze these issues, some commenters believed that the lower 48 State model masks or understates costs and impacts in some regions, and that data limitations and exclusions of some costs lead to understated economic impacts in all scenarios. Some commenters stated that the number of economically marginal wells that would be forced to shut down if RCRA Subtitle C regulations were imposed has been underestimated, and that certain assumptions in the model are unrealistic. Some commented that the analysis ignores impacts on undiscovered energy reserves and gas production.

Taking the opposite point of view, other commenters argued that the cost analysis ignores public health costs associated with continued improper disposal of crude oil and natural gas wastes, and that the report does not take into account the financial consequences of contamination of ground water and other natural resources. Some claimed that long-term financial burdens to taxpayers to mitigate environmental damage, to provide health care, and to sustain financial burden from lost productivity, will be greater than the cost to the crude oil and natural gas industry to prevent that damage.

The Agency believes that its estimates of impacts to the industry of full regulation under RCRA Subtitle C are reasonable and that such impacts would be substantial. The Agency acknowledges that costs related to public health effects and contamination of ground water and other natural resources because of improper disposal of crude oil and natural gas wastes have not been determined.

10. *Regulation of all exempt wastes under full, unmodified RCRA Subtitle C appears unnecessary and impractical at this time.* Opinion was divided on this conclusion. Those agreeing did so strongly, while those opposed generally stated that if a waste is RCRA hazardous, it should be treated under RCRA regulations regardless of its origin. Many of those in disagreement with this conclusion argued that the crude oil and natural gas industry can afford the financial burden of RCRA regulation.

For reasons described in Section IV of this regulatory determination, the Agency continues to believe that regulation of all crude oil and natural gas wastes under RCRA Subtitle C is unnecessary and impractical. The Agency believes that these wastes can be managed in a manner so as to protect human health and the environment without regulating them under RCRA Subtitle C.

11. *States have adopted variable approaches to waste management.* Most commenters agreed with this conclusion, but there was considerable disagreement over whether current State regulations are adequately designed and enforced.

Variable approaches to waste management are partly the result of varying environmental conditions, geology, and economics among the producing States. EPA believes, however, that there are many cases where more stringent requirements are both feasible and desirable, and that many States have recognized this in changes made to their regulations in the last few years. Some States have taken significant leadership roles in the development of more environmentally protective requirements.

12. *Implementation of existing State and Federal requirements is a central issue in formulating recommendations in response to section 8002(m).* Opinion was divided on this conclusion. Some commenters urged that existing State and Federal regulations are adequate and that additional State or Federal regulations are unnecessary and impractical. Others argued that existing State and Federal regulations have not been adequately enforced and that additional Federal regulations are necessary.

The Agency believes that the design, enforcement, and implementation of existing State and Federal regulations can clearly be improved.

Public comments on the Geothermal Energy Portion of Report to Congress: Only two comments specifically addressed geothermal energy wastes.

One commenter presented additional information relating to damages resulting from the offsite disposal of geothermal energy production wastes (such as hydrogen sulfide abatement wastes which test nonhazardous by California standards) in commercial facilities. The information alleged potential damages and/or risk by contamination of surface and ground water from the disposal of hydrogen sulfide abatement wastes in centralized or commercial disposal facilities in California. These facilities are designated strictly for the disposal of geothermal energy production wastes determined to be nonhazardous by California standards.

The other commenter specifically addressing geothermal energy, fully supported the conclusions of the report and stated that the California statutes regarding the management of geothermal energy wastes are comprehensive and effective.

The Agency continues to believe that geothermal energy wastes are generally well regulated under existing State and Federal programs. However, the Agency acknowledges that at least one significant undesirable disposal practice is occurring and has taken this into consideration in making this final regulatory determination.

D. Determination of the Scope of the Temporary RCRA Exemption

Based on the language of RCRA section 3001(b)(2)(A) of the 1980 amendments to RCRA, review of the statute, and supporting legislative history, the Agency believes that the following wastes were included in the temporary exemption set forth in the statute.

- Produced water;
- Drilling fluids;
- Drill cuttings;
- Rigwash;
- Drilling fluids and cuttings from offshore operations disposed of onshore;
- Geothermal production fluids; and
- Hydrogen sulfide abatement wastes from geothermal energy production.
- Well completion, treatment, and stimulation fluids;
- Basic sediment and water and other tank bottoms from storage facilities that hold product and exempt waste;

- Accumulated materials such as hydrocarbons, solids, sand, and emulsion from production separators, fluid treating vessels, and production impoundments;
- Pit sludges and contaminated bottoms from storage or disposal of exempt wastes;
- Workover wastes;
- Gas plant dehydration wastes, including glycol-based compounds, glycol filters, filter media, backwash, and molecular sieves;
- Gas plant sweetening wastes for sulfur removal, including amines, amine filters, amine filter media, backwash, precipitated amine sludge, iron sponge, and hydrogen sulfide scrubber liquid and sludge;
- Cooling tower blowdown;
- Spent filters, filter media, and backwash (assuming the filter itself is not hazardous and the residue in it is from an exempt waste stream);
- Packing fluids;
- Produced sand;
- Pipe scale, hydrocarbon solids, hydrates, and other deposits removed from piping and equipment prior to transportation;
- Hydrocarbon-bearing soil;
- Pigging wastes from gathering lines;
- Wastes from subsurface gas storage and retrieval, except for the nonexempt wastes listed below;
- Constituents removed from produced water before it is injected or otherwise disposed of;
- Liquid hydrocarbons removed from the production stream but not from oil refining;
- Gases from the production stream, such as hydrogen sulfide and carbon dioxide, and volatilized hydrocarbons;
- Materials ejected from a producing well during the process known as blowdown;
- Waste crude oil from primary field operations and production; and
- Light organics volatilized from exempt wastes in reserve pits or impoundments or production equipment.

The Agency believes that the following wastes were not included in the original exemption:

- Unused fracturing fluids or acids;
- Gas plant cooling tower cleaning wastes;
- Painting wastes;
- Oil and gas service company wastes, such as empty drums, drum rinsate, vacuum truck rinsate, sandblast media, painting wastes, spent solvents, spilled chemicals, and waste acids;
- Vacuum truck and drum rinsate from trucks and drums transporting or containing non-exempt waste;
- Refinery wastes;
- Liquid and solid wastes generated by crude oil and tank bottom reclaimers;
- Used equipment lubrication oils;
- Waste compressor oil, filters, and blowdown;
- Used hydraulic fluids;
- Waste solvents;
- Waste in transportation pipeline-related pits;
- Caustic or acid cleaners;
- Boiler cleaning wastes;
- Boiler refractory bricks;
- Boiler scrubber fluids, sludges, and ash;
- Incinerator ash;
- Laboratory wastes;
- Sanitary wastes;
- Pesticide wastes;
- Radioactive tracer wastes;
- Drums, insulation, and miscellaneous solids.

In order to determine the scope of the exemption, the Agency reviewed the statute and legislative history. The Agency interprets the term "other wastes associated" to include rigwash, drill cuttings, and wastes created by agents used in facilitating the extraction, development and production of the resource, and wastes produced by removing contaminants prior to the transportation or refining of the resource. Drill cuttings and rigwash are generally co-mingled with drilling muds, and the Agency therefore has grouped them with large-volume wastes for purposes of discussion in this determination. The remaining wastes on the above list of exempt wastes are considered "associated wastes" for purposes of this determination.

The Agency has determined that produced water injected for enhanced recovery is not a waste for purposes of RCRA regulation and therefore is not subject to control under RCRA Subtitle C or RCRA Subtitle D. Produced water used in enhanced recovery is beneficially recycled and is an integral part of some crude oil and natural gas production processes. Produced water injected in this manner is already regulated by the Underground Injection Control program under the Safe Drinking Water Act. The Agency notes, however, that if the produced water is stored in surface impoundments prior to injection, it may be subject to RCRA Subtitle D regulations.

III. Factors Considered in Regulatory Determination

Section 3001(b)(2)(B) of RCRA states that in making the regulatory determination, the Agency must "utilize the information developed or accumulated pursuant to the study required under section 8002(m)." Clearly, Congress envisioned that the determination would be based on all factors specifically enumerated in section 8002(m), as well as general issues raised by the text of section 8002(m) as a whole. Therefore, in making today's determination, EPA considered not just the impact of these wastes on human health and the environment, but also the other factors that RCRA section 8002(m) required EPA to study.

Specifically, EPA considered three major factors in developing this determination: (1) The characteristics, management practices, and impacts of oil, gas, and geothermal wastes on human health and the environment; (2) the adequacy of existing State and Federal regulatory programs for controlling these wastes; and (3) the economic impacts of any additional regulations on the exploration for, and development and production of, crude oil, natural gas, and geothermal energy. Section 8002(m) required EPA to study each of these factors.

IV. Regulatory Determination for Crude Oil and Natural Gas Wastes

The following discussion summarizes information on the three major factors (discussed above) used in making this regulatory determination and then presents EPA's conclusions and rationale for the regulatory determination for crude oil and natural gas wastes. The information summarized here incorporates information received during the public comment period and additional refinement of the data presented in EPA's December 1987 Report to Congress.

A. Hazard Assessment

For the Report to Congress, EPA conducted a limited analysis which modeled the potential effects of disposal of drilling waste in reserve pits and the disposal of produced water by underground injection and found that the potential risks to human health and the environment were small. Only a few constituents appeared to be of major concern when these wastes are managed in accordance with existing State and Federal regulations. The actual threats posed were largely dependent upon site-specific factors such as populations or sensitive ecosystems. Other management practices such as storage of produced water in unlined pits were not modeled and may pose higher risks.

Analysis of field data collected by EPA and presented in the January 1987 technical report shows that a portion of oil and gas wastes contain constituents

of concern above EPA health- or environmental-based standards. For example, wastes at 7 percent of the sites generating drilling fluids and 23 percent of the statistically weighted sample sites generating produced water contain one or more of the toxic constituents of concern at levels greater than 100 times the health-based standards. The constituents typically exceeding the standards in drilling fluids are fluoride, lead, cadmium, and chromium. The constituents exceeding the standards in produced water are benzene, arsenic, barium, and boron. In addition, wastes at 78 percent of the sample sites generating drilling fluids, and 75 percent of the sample sites generating produced water, contain chlorides at levels greater than 1,000 times the EPA secondary maximum contaminant level for chloride. Like large-volume wastes, associated wastes contain a wide variety of hazardous constituents. Many associated wastes contain constituents that are similar in chemical composition and/or toxicity to other wastes currently regulated under RCRA Subtitle C.

The presence of constituents in concentrations exceeding health- or environmental-based standards does not necessarily mean that these wastes pose significant risks to human health and the environment. In evaluating the risks to human health and the environment, several factors beyond the toxicity of the waste should be considered. These factors include the rate of release of contaminants from different management practices, the fate and transport of these contaminants in the environment, and the potential for human health or ecological exposure to the contaminants.

On the basis of available data, EPA can only roughly estimate how much currently exempt oil and gas waste would be considered hazardous under current or proposed RCRA Subtitle C standards. It is clear that some portions of both the large-volume and associated waste would have to be treated as hazardous if the Subtitle C exemption were lifted. EPA estimates that approximately 10 to 70 percent of large-volume wastes and 40 to 60 percent of associated wastes could potentially exhibit RCRA hazardous waste characteristics under EPA's regulatory tests.

EPA has documented 62 damage cases caused by crude oil and natural gas wastes. Because large-volume wastes and associated wastes are often managed and disposed of together, it is often difficult to isolate the specific waste stream that contributed greatest to the damage. However, available data does not indicate that significant damage can occur from mismanagement of both large-volume wastes and associated wastes. EPA believes that most of these damages could have been prevented if the wastes had been managed in accordance with existing State and Federal requirements. However, because of certain regulatory gaps, damages have occurred even where wastes are managed in compliance with existing requirements.

B. Economic Impact Analysis

Application of RCRA Subtitle C to exploration, development, and production wastes could be extremely costly if large portions of these wastes were hazardous. The Agency estimates that implementation of RCRA Subtitle C on 10 to 70 percent of the large-volume drilling waste and non-EOR produced water would cost the industry and consumers $1 billion to $6.7 billion per year in compliance costs (not including costs for land ban or corrective action regulations mandated by Congress). This would reduce domestic production by as much as 12 percent.

In response to questions raised subsequent to the Report of Congress, the Agency also conducted a preliminary evaluation of the likely range of potential compliance costs and industry impacts that could result from removal of the RCRA Subtitle C exemption for associated wastes. The Agency's preliminary estimate is that the cost to the crude oil and natural gas industry of RCRA Subtitle C management for associated wastes would range between $200 million and $550 million per year. These cost estimates are based on American Petroleum Institute survey estimates on the quantities of associated wastes produced and their current management practices, together with the Agency assumption that 40 to 60 percent of these wastes might require management under RCRA Subtitle C, and Agency estimates of the probable range of unit costs for managing these various waste types.

However, it is important to note that these estimates do not include the cost of corrective action. The application of corrective action requirements to facilities that manage associated wastes on-site would impose substantial costs on the units managing the associated wastes as well as any other solid waste management units that exist within the facility boundaries to the extent that the wastes continue to be managed on-site. Since nearly half of the associated wastes are currently managed on-site, this could result in significant costs to the industry. The cost estimates also assume that "land-ban" treatment of hazardous solids and sludges consists of recycling and resource recovery. It is likely that some fraction of these wastes would need to be incinerated in compliance with the treatment standards established by the "land-ban," implying higher costs of regulating the associated wastes under Subtitle C.

C. Adequacy of State and Federal Regulatory Programs

EPA evaluated State regulations pertaining to large-volume wastes and associated wastes. Often, some of these wastes are co-mingled and disposed of together. Consequently, they are usually managed together under one regulatory program at the State level.

With regard to large-volume wastes, EPA found most existing State regulations are generally adequate for protecting human health and the environment. Most States have requirements specifically controlling the management of drilling muds and produced waters. However, certain gaps do exist in State regulations for large-volume wastes. For example, some States do not have adequate requirements controlling roadspreading or landspreading of large-volume wastes, design or maintenance rules for reserve pits, or have insufficient management specifications for centralized and commercial disposal facilities. As noted previously, EPA also found damages which occurred due to surface discharges not prohibited by State regulation.

Another regulatory gap for some States are controls for associated wastes. Most State regulations do not include specific controls for the management of these wastes. General standards are often difficult to enforce unless a specific pollution incident is discovered and can be attributed to a particular waste disposal event. However, a few States such as Texas do specifically address associated wastes and other States have general standards that provide partial control of these wastes.

The Agency has examined changes in State regulatory programs over the past two years. Some States have improved their regulatioins, while other States have relaxed specific waste management requirements. For example, while reserve pit management has been strengthened in some States, other States have relaxed controls pertaining to land application of large-volume wastes. Problems also remain regarding adequate State implementation and enforcement of existing regulations.

The Agency also evaluated the Federal Underground Injection Control

(UIC) program under the Safe Drinking Water Act and regulatory programs under the Clean Water Act. The UIC program effectively controls underground injection from the point of the wellhead, while the NPDES program addresses point source discharges to surface water bodies. These programs are particularly important in controlling management of large-volume wastes. However, EPA has identified certain gaps in these programs. For example, UIC regulations currently allow the practice of annular disposal and lack uniform mechanical integrity testing standards. The Clean Water Act regulatory program gaps include the lack of national effluent limitations at the Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) levels. These national limitations are needed to more effectively deal with discharges from facilities in the onshore and coastal subcategories of the industry. EPA also found that improvements are needed regarding implementation and enforcement of existing regulations. The Agency has already undertaken steps to address these deficiencies; these are discussed in Section V of today's notice.

Finally, EPA evaluated the existing Federal criteria under Subtitle D of RCRA. These criteria (40 CFR Part 257) include general environmental performance standards applicable to the disposal of any solid waste, including oil, gas, and geothermal wastes. These criteria include among other things, standards related to surface water discharges, ground-water contamination, and endangered species. Because the programs' criteria are aimed principally at municipal solid waste, EPA believes they do not now fully address oil and gas waste concerns. In addition, many of these criteria, such as control of disease vectors and aviation hazards, are not appropriate for oil and gas waste. Nevertheless, EPA has authority under Subtitle D to tailor requirements appropriate for the disposal of oil and gas wastes.

D. Conclusions

The Agency has decided not to promulgate regulations under Subtitle C for large-volume and associated wastes generated by the exploration, development and production of crude oil and natural gas. The Agency decision is based on the following reasons:

(1) Subtitle C contains an unusually large number of highly detailed statutory requirements, some of which are not only extremely costly, but also are unnecessary for the safe management of oil and gas wastes. Subtitle C does not, however, allow the Agency to consider costs where applying these requirements to oil and gas wastes. Consequently, EPA would not be able to craft a regulatory program to reduce or eliminate the serious economic impacts that it has predicted. Thus, in light of Congress' concern for the protection of the nation's future energy supply, Subtitle C regulations must be considered unwarranted. A tailored Subtitle D program, by contrast, will enable the Agency to apply all necessary requirements to the management of these wastes, while ensuring that economic impacts are minimized.

(2) As discussed in Section II. B., Congress has indicated that Subtitle C regulations are unwarranted where existing programs can be employed to protect human health and the environment from the problems created by oil and gas wastes. EPA has concluded that, in fact, existing State and Federal programs are generally adequate, and that remaining gaps can be filled by modifying these programs. Subtitle C regulation is, therefore, unwarranted. Moreover, Subtitle C, with its comprehensive "cradle to grave" management requirement, simply is not well suited to this type of gap-filling regulation. It is thus both more efficient and appropriate to fill the gaps by strengthening regulations under the Clean Water Act and UIC program and promulgating the remaining rules needed under RCRA under the less prescriptive statutory authorities set out in Subtitle D.

(3) Since the States and EPA have consistently required long periods of time to process Subtitle C permits, regulation under Subtitle C could delay the start of operations at new facilities. These delays would be particularly disruptive to the exploration phase of oil and gas development.

(4) Subtitle C regulation of these wastes would subject them to all of the land disposal restriction requirements, including BDAT, and thus could severely strain existing Subtitle C facility capacity.

(5) The Agency believes that it is impractical and inefficient to implement Subtitle C for all or some of these wastes because of the disruption and, in some cases, duplication of State authorities that administer programs through organizational structures tailored to the oil and gas industry.

(6) It is impractical and inefficient to implement Subtitle C for all or some of these wastes because of the permitting burden that the regulatory agencies would incur if even a small percentage of these sites were considered Treatment, Storage and Disposal Facilities (TSDFs).

V. Efforts to Improve State and Federal Programs

The Agency plans a three-pronged approach toward filling the gaps in existing State and Federal programs that regulate the management of wastes from the crude oil, and natural gas, industries. This effort will include:

1. Improving Federal programs using existing authorities under Subtitle D of RCRA and the Clean Water and Safe Drinking Water Acts;

2. Working with the States to encourage changes in their regulations and enforcement programs to achieve more uniformity in the administration of their programs; and

3. Working with Congress to develop any additional statutory authority that may be required.

A. Federal Program Improvements Within Existing Authorities

1. Clean Water and Safe Drinking Water Act Programs

The Agency believes certain improvements in the Safe Drinking Water and Clean Water Acts are desirable with respect to their application to crude oil and natural gas wastes. In the case of the UIC program, the Agency had previously determined that a critical examination of the overall program was in order. The program has now been in effect for approximately 5 years or more, depending on when a State program was approved or a Federal program was promulgated in a State. This examination, currently underway, includes a review of the adequacy of the regulations and policies governing the program and of the way in which States and EPA Regions are implementing and enforcing the program. The review of the adequacy of State implementation is complex because approval of State programs was, by statute, governed by a determination of their effectiveness in protecting underground sources of drinking water, rather than by their conformity with minimum Federal regulations.

Implementation of the UIC program by the EPA Regions is undergoing a peer review process, which will be completed by the fall of 1988. Implementation of the State programs is reviewed routinely by the EPA Regions. In addition, the EPA's Office of Drinking Water has undertaken a cycle of in-depth reviews of the UIC program. The California, Texas, and Kansas programs were

reviewed in 1987. A review of Wyoming and at least one other State, not yet selected, will be conducted in 1988. The States have also undertaken a peer review project directed by the Underground Injection Practices Council.

The Agency has formed a workgroup, which will include participation by the States and other Federal agencies, to review issues pertinent to the UIC regulations. The stategy for this review is available in the RCRA docket. A final report and the recommendations of the workgroup are expected to be available in the winter of 1988–89.

In conjunction with the Clean Water Act, the Agency is currently developing national discharge regulations for the offshore crude oil and natural gas industry and is planning for the development of national discharge regulations for the coastal oil and gas industry. The coastal segment generally includes exploration, development and production facilities that are located in or adjacent to tidal wetlands. These regulations will cover the discharges of produced water, drilling fluids, drill cuttings and various low-income waste streams to surface waters of the U.S. The regulations will address the best available technology (BAT), best conventional technology (BCT) and new source performance standards (NSPS) levels of control. These regulations may result in a prohibition on the discharge of a significant portion of high volume drilling wastes (drilling fluids and cuttings) into U.S. offshore waters. As such, these wastes will be transported to shore by the offshore operators for land disposal. These wastes would then be subject to regulation under RCRA Subtitle D.

The Agency is also planning to begin development of national effluent regulations for onshore stripper oil and gas production. The onshore stripper well regulations will cover the discharges of produced water and well treatment wastes to surface waters of the U.S. These regulations will be established at increasing levels of stringency compared to the best practicable technology (BPT) level of control. Non-stripper wells located onshore are already subject to a "zero-discharge" requirement under NPDES.

22. *RCRA Subtitle D Approach*

(a) General Approach. EPA believes it can design and implement a program specific to crude oil and natural gas wastes under Subtitle D of RCRA that effectively addresses the risks associated with these wastes. EPA is already in the process of developing revised Subtitle D criteria for facilities that may receive hazardous household waste or small quantity generator hazardous wastes as well as for mining waste disposal facilities. The Agency intends to augment the Subtitle D program by developing appropriate standards and taking other actions as appropriate for crude oil and natural gas wastes.

In developing these tailored Subtitle D standards for crude oil and natural gas wastes, EPA will focus on gaps in existing State and Federal regulations and develop appropriate standards that are protective of human health and the environment. Gaps in existing programs include adequate controls specific to associated wastes and certain management practices and facilities for large-volume wastes, including roadspreading, landspreading, and impoundments. EPA is particularly concerned about centralized and commercial facilities that treat, store, or dispose of oil field wastes in concentrated form. Pits or impoundments at these facilities often contain hazardous constituents in high concentrations. In addition, centralized facilities are responsible for some of the most significant damages the Agency documented.

To ensure proper control over oil and gas disposal facilities and practices, EPA will consider requirements under Subtitle D such as: (1) Engineering and operating practices, including run-off controls, to minimize releases to surface water and groundwater; (2) proper procedures for closing facilities; (3) monitoring that accommodates site-specific variability; and (4) clean-up provisions. EPA will tailor these standards to the special problems posed by oil and gas waste disposal facilities, as well as incorporate appropriate flexibility to address site-specific variability.

In developing a tailored Subtitle D program for oil and gas wastes, EPA will use its RCRA section 3007 authority to collect any additional information needed on the characteristics and management practices of oil and gas wastes. EPA believes this authority does not limit information collection to "hazardous" waste identified under Subtitle C, but also authorizes the collection of information on any solid waste that the Agency reasonably believes may pose a hazard when improperly managed. (EPA may also use this authority in preparing enforcement actions.)

In specifying the appropriate standards, EPA also will further analyze existing Federal and State authorities and programs and determine future plans for administering their oil and gas waste programs. Additionally, EPA will perform analyses of costs, impacts, and benefits and will comply fully with Executive Orders 12291 and 12498, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

The Agency will specifically consider the impact of future regulations on small business operations in the process of regulatory development under the Agency guidelines with respect to the Regulatory Flexibility Act. The Agency believes that the tailored RCRA Subtitle D regulations can provide the flexibility necessary to reflect the marginal economic nature of certain segments of the industry, while at the same time affording improved environmental protection. For example, the Agency recognizes that many stripper operations are, by their nature, more vulnerable to regulatory burdens imposed by any new controls over crude oil and natural gas wastes, and that many stripper wells are associated with small, non-integrated producers. This is particularly significant in certain producing regions such as Appalachia.

(b) Alaska's North Slope. Tailored standards under Subtitle D will specifically address controls necessary to protect fragile or sensitive environments; one such sensitive environment is the Arctic North Slope. EPA is particularly concerned about the management of crude oil and natural gas wastes in this area, where oil extraction is performed on a very large scale, accounting for roughly 20 percent of total U.S. production. There also exists the likelihood for future development of potentially significant crude oil and natural gas reserves on the North Slope in areas surrounding Prudhoe Bay and areas in the Arctic National Wildlife Refuge.

The Arctic North Slope is particularly sensitive and fragile, with unique geographic and climatic conditions that make its environment fundamentally different from the lower 48 States. The area is primarily an arctic desert, frozen for about 9 months out of the year and underlain by up to 2,000 feet of permafrost. During the summer months, surface water exists in the form of interconnected tundra ponds, which exhibit little or no flow during the summer season. This, in addition to the severity of the climate and the shortness of the growing season, makes the area particularly vulnerable to ecological impacts, or impacts from less than rigorous waste management practices.

There is a lack of long-term historical data on impacts of crude oil and natural gas industry activities on the North Slope. Based on preliminary studies,

current waste management practices used on the North Slope pose the potential for environmental degradation. As stated in the Report to Congress, a 1983 U.S. Fish and Wildlife Service study found chromium, arsenic, cadmium, nickel, and barium to be present in tundra ponds adjacent to reserve pits at levels significantly greater than in control ponds. Levels of chromium in adjacent ponds were also found to exceed EPA chronic toxicity criteria, and affected distant ponds were found to contain chromium levels significantly higher than background levels. The authors of this study caution, however, that these findings cannot be extrapolated to present-day oil field practices on the North Slope because some industry practices have changed and the State's regulations have become increasingly more stringent since 1983.

Historically, enforcement of environmental controls on the North Slope has been inadequate. EPA believes this inadequacy has contributed to the use of undesirable waste management practices in some cases. For example, as discussed in the Report to Congress, an incident developed involving an oil field service company that was disposing of drums and waste chemicals in an inappropriate manner. The Agency believes that a greater enforcement presence in addition to improved regulations could prevent such incidents from recurring.

Recently, the State of Alaska has improved waste management regulations pertaining to the North Slope. In addition, some operators plan to implement more desirable waste management practices, including the possibility of phasing out reserve pits through the use of closed drilling systems and injection for waste drilling muds and cuttings. If implemented, these changes would be major improvements in waste management practices on the North Slope.

B. Additional Federal Authorities

EPA is concerned over the lack of Federal authority under Subtitle D of RCRA to address treatment and transportation of oil and gas wastes. The Administrator therefore will work with Congress to develop any additional legislative authorities that may be needed to address these issues. In the interim, EPA will use section 7003 of RCRA and sections 104 and 106 of CERCLA to seek relief in those cases where wastes from oil and gas sites pose substantial threats or imminent hazards to human health and the environment. Oil and gas waste problems can also be addressed under RCRA section 7002 which authorizes citizen lawsuits for violations of Subtitle D requirements in 40 CFR Part 257.

C. Improvement in State Programs

While in the process of completing improvements in the Federal programs, EPA plans to work with the States to improve the content, implementation, and enforcement of existing State regulations. This will be a cooperative effort with voluntary State participation. For example, the Interstate Oil Compact Commission has already begun work in this area and has expressed an interest in cooperating with EPA in this regard. Specifically, the Agency plans to encourage States to take steps to fill the following gaps (where present) in their existing regulatory programs:

(1) Controls for roadspreading and landspreading;

(2) Surface impoundment (i.e., pit) location, design, and maintenance;

(3) Controls for associated wastes; and

(4) Plugging abandoned oil and gas wells.

According to State officials, many States have tens of thousands of unplugged or improperly plugged abandoned wells. EPA's December 1987 Report to Congress documented groundwater contamination with chlorides from unplugged or improperly plugged abandoned crude oil and natural gas wells and indicated that State requirements for plugging and abandoning crude oil and natural gas wells vary, with inadequacies apparent in some State programs. For example, many States do not require a plugging bond from operators who drill crude oil and natural gas wells. Where bonding is required, the amount is often not adequate to provide for proper plugging once a well is abandoned.

EPA encourages States to develop programs to address abandoned wells. However, the Agency recognizes that locating and identifying these wells is difficult, and sometimes impossible, because of poor record keeping or the absence of records. Because many unplugged wells are several decades old, the owner or operator often cannot be identified. Some States have plugging funds to use in such circumstances, some do not.

The Agency will also work with States to improve implementation and enforcement of existing State regulations. EPA believes that improvements in enforcement of existing regulations will significantly increase protection of human health and the environment.

EPA will also work closely with the State of Alaska on addressing problems associated with management of crude oil and natural gas wastes on the Arctic North Slope. Because of the remoteness and severe climatic conditions, enforcement is particularly difficult in this area. The Agency will explore with the State of Alaska and the Department of the Interior ways to improve enforcement in this area. The Agency believes operators should continue research into impacts on the environment of their waste management practices. The Agency will develop a list of recommended areas for research in the research, demonstration, and development plan required by RCRA section 8002(m)(2).

VI. Regulatory Determination for Geothermal Energy Wastes

A. Hazard Assessment

There is only a limited record of damages or danger to human health or the environment resulting from the exploration, development, and production of geothermal energy. Based on the limited information available, the Agency has determined that the risk to human health and the environment resulting from the exploration, development, and production of geothermal energy is relatively low. The geothermal energy industry is comparatively small, with a total of 395 wildcat, production, and injection wells drilled between 1981 and 1985. Most geothermal energy production is in California (321 out of 395 wells) and Nevada. It is unlikely that there will be further large-scale development of geothermal energy resources outside of the State of California because the occurrence of accessible geothermal energy is extremely limited.

B. Adequacy of State and Federal Regulations

As indicated in the Report to Congress, the Agency believes that existing State and Federal regulations are generally adequate for controlling wastes from geothermal energy production. However, one public comment on the Report to Congress suggests a possible gap in California's regulatory program addressing these wastes. The commenter documented potential endangerment of human health and damage to the environment because of the disposal of geothermal energy hydrogen sulfide abatement wastes in commercial facilities in California.

C. Conclusions

EPA has decided not to regulate wastes generated by the exploration and development of geothermal energy resources under RCRA Subtitle C. EPA believes that Subtitle C control for these

wastes is unwarranted because of the relatively low risk of these wastes and the presence of generally effective State and Federal regulatory programs. Because these wastes are largely confined to California and Nevada, EPA will work closely with these States to address any gaps in their regulatory programs for the management of hydrogen sulfide abatement wastes.

VII. Research, Development, and Demonstration Plan

The Agency will develop a research, development, and demonstration plan based on the findings of the Report to Congress and subsequent public comments on the report. This plan will outline various topics that the Federal and State governments and/or industry could pursue. This plan will include the following topics:

- Alternative waste management technologies;
- Waste minimization techniques;
- Materials substitution;
- Recycling and reuse;
- Reserve pit construction (percolation, leaching, and erosion control issues);
- Plugging and abandonment of crude oil and natural gas wells;
- Better characterization of produced waters and associated wastes generated by stripper crude oil and natural gas wells; and
- Field monitoring to evaluate the adequacy of waste containment practices.

VIII. EPA RCRA Docket

The EPA RCRA docket is located at: United States Environmental Protection Agency, EPA RCRA Docket (Sub-basement), 401 M Street, SW., Washington, DC 20460.

The docket is open from 9:30 a.m. to 3:30 p.m., Monday through Friday except for Federal holidays. The public must make an appointment to review docket materials. Call the docket clerk at (202) 475–9327 for appointments.

The following documents related to this regulatory determination are available for inspection in the docket:

- Report to Congress on Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy;
- All supporting documentation for the regulatory determination, including public comments on the Report to Congress and EPA response to comments; and
- Transcripts from the public hearings on the Report to Congress.

Dated: June 29, 1988.

A. James Barnes,

Acting Administrator.

[FR Doc. 88–15097 Filed 7–5–88; 8:45 am]

BILLING CODE 6560–50–M

federal register

Wednesday
July 6, 1988

Part VIII

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 511

Rental Rehabilitation Grants; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 511

[Docket No. R-88-1401; FR 2472]

Rental Rehabilitation Grants

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule implements sections 150 (a), (c), (d), (e) and 311 of the Housing and Community Development Act of 1987. These provisions make a number of changes in the Rental Rehabilitation Grant Program authorized by section 17(a)(1)(A) of the United States Housing Act of 1937 and codified at 24 CFR Part 511. The major changes herein, which apply to grantees' uncommitted funds from prior years as well as FY 1988 funds unless otherwise stated, include (1) increasing the $5,000 per-unit limit on the amount of rental rehabilitation assistance for any project by means of a scale ranging from $5,000 to $8,500, depending on the number of bedrooms in the unit; (2) permitting grantees to use up to the full amount of any rental rehabilitation funds they receive from FY 1988 and later years' appropriations to rehabilitate units with one bedroom or less to meet applicable seismic standards imposed by the units of general local government within which the rehabilitated units are located, if the initial occupants of the units have incomes not in excess of 50 percent of the median area income; (3) allowing grantees (except those in HUD-administered State programs) to use up to 10 percent of any initial rental rehabilitation grant amounts that they receive from FY 1988 and later year funds for administrative expenses in carrying out their rental rehabilitation programs; and (4) allowing States to use funds allocated in "prior years" for projects located in FmHA Title V-eligible areas until September 30, 1989 for demonstration purposes. Two other 1987 Act amendments, one making eligible for rental rehabilitation assistance real property that will be privately owned upon completion of rehabilitation, and the other making eligible property owned by certain non-profit organizations, are not implemented by this interim rule, for reasons explained under "**SUPPLEMENTARY INFORMATION**" below.

DATES: *Effective Date:* September 12, 1988.

Comments Due Date: September 6, 1988.

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

FOR FURTHER INFORMATION CONTACT: Mary Kolesar, Director, Rehabilitation Management Division, Office of Urban Rehabilitation, Room 7162, Department of Housing and Urban Development, at the above address, telephone (202) 755-5970. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This rule implements sections 150 (a), (c), (d), (e) and 311 of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) (the 1987 Act). Section 150 makes a number of changes in the Rental Rehabilitation Program authorized by section 17(a)(1)(A) of the United States Housing Act of 1937 (the 1937 Act) and codified at 24 CFR Part 511. The changes include the following:

1. *Technical assistance.* Section 150(a) of the 1987 Act requires that, from the overall rental rehabilitation appropriations for each of Fiscal Years 1988 and 1989, $1.5 million shall be available for technical assistance, including the collection, processing, and dissemination of program information useful for local and national program management. The rule incorporates the statute's illustrative listing of the types of eligible technical assistance at § 511.3.

2. *Property eligible for rehabilitation.* Section 150(b) makes real property that will be privately owned upon completion of the assisted rehabilitation eligible for rental rehabilitation assistance. This provision allows HUD to disburse grant funds to pay for eligible rehabilitation costs prior to the occurrence of a condition upon which eligibility depends—transfer of property not currently privately owned to an eligible private owner, as defined in the statute and HUD's regulations. Such a provision requires precise implementation, since grantees expending funds for projects subject to subsequent eligibility conditions are at risk of being required to repay the grant from their own funds if the condition is not met. Grantees need to know the terms that must be met with respect to the future transfer to private ownership, before accepting the risk of spending their grant funds for such projects. Similarly, to protect against unauthorized use of grant funds and waste and inefficiency, HUD must establish clear deadlines for meeting all relevant eligibility conditions, and it must monitor and enforce those deadlines. HUD is still considering how best to implement section 150(b). In the interest of expediting the issuance of regulations on the other 1987 Act amendments, some of which are relevant to States deciding whether to administer their own 1988 fund allocations or to elect to have HUD do so, HUD has decided to issue this interim rule and to issue a separate rule to implement section 150(b). HUD still expects to issue such a rule before the end of FY 1988. In the meantime, grantees are not permitted to commit or disburse funds to publicly owned projects.

3. *Property owned by certain non-profit organizations.* Section 150(f) of the 1987 Act addresses real property that is owned by a State or locally chartered, neighborhood-based, nonprofit organization, the primary purpose of which is the provision and improvement of housing. This amendment is not expressly implemented by this interim rule. HUD believes that the principal purpose of this amendment is either already satisfied by existing regulations and policy or can be satisfied without regulatory changes. In general, State or locally chartered nonprofit corporations, whether or not they are neighborhood-based, or are housing-oriented, are already viewed by HUD as eligible to own rental rehabilitation projects, *provided* that they are not controlled by a public body itself or by individuals acting on behalf of a public body.

HUD may clarify its position on publicly controlled entities in the separate rule on "property that will be privately owned upon completion of rehabilitation" referred to above.

4. *Per unit grant limits.* Section 105(c) of the 1987 Act increases the $5,000 per-unit limit on the amount of rental rehabilitation grants that grantees may commit to any project, by means of a sliding scale depending on the number of bedrooms in each dwelling unit, as follows:

- $5,000 for units with no bedrooms.
- $6,500 for units with one bedroom.
- $7,500 for units with two bedrooms.
- $8,500 for units with three or more bedrooms.

Section 511.10(e)(2) of the former regulations stated the existing $5,000 per-unit limit in terms of an average amount. Thus, for a project containing two three-bedroom units and two one-

bedroom units, or four units in all, the previous overall limit was $20,000 ($5,000 multiplied by four units), but the actual amount spent for a given unit could exceed $5,000, so long as the total expended on all four units was within the $20,000 overall project limit. This rule continues this concept, by specifying that the amount of a rental rehabilitation grant expended for any project may not exceed the sum of the applicable dollar limits for each unit in the project. Thus, under the new per-unit subsidy provision, the same four-unit project could receive up to $30,000 ($8,500×2=$17,000, plus $6,500×2=$13,000, for a total of $30,000) in subsidy as long as the total rehabilitation cost was $60,000 or more, with rental rehabilitation funds providing one-half of the eligible rehabilitation costs.

Finally, current § 511.10(e)(2) applies high-cost area increases to the basic limits based on the number of units in the project. This rule continues these increases without substantive change. A technical change has also been made at the end of § 511.10(e)(2)(ii) to clarify that the maximum high cost area *increase* is 140 percent times the amount of the original limit, making the ultimate high cost area *limit* 240 percent of the original maximum.

This amendment applies to all rental rehabilitation grant amounts that had not been committed by grantees to specific local projects (as defined in § 511.2) as of the effective date of the 1987 Act, February 5, 1988. Thus, grantees with uncommitted FY 1984, 1985, 1986, or 1987 funds may commit those funds to projects in accordance with the new higher per-unit limits. Of course, grantees continue to have discretion to set the amount of assistance they will provide to particular projects up to the maximums permitted by Part 511. For example, the grantee is not required to make available $6,500 for each one-bedroom unit.

5. *Seismic standards.* Section 150(d) of the 1987 Act provides that if a unit of general local government has a local ordinance that requires rehabilitation to meet seismic standards, it may use all the rental rehabilitation grant amounts that it receives to rehabilitate units with no bedrooms or one bedroom, if the occupants of the units will have incomes that do not exceed 50 percent of the median income for the area.

It is HUD's understanding that a few units of general local government (perhaps only one) in earthquake prone areas have large numbers of one-bedroom apartments requiring rehabilitation to meet local seismic standards if they are to continue to be safely occupied by their current very low-income residents. Section 511.10(k) currently requires grantees to use 70 percent or more of each year's grant funds to rehabilitate units containing two or more bedrooms, unless a lower standard is approved by HUD. Section 511.10(k) in turn implements section 17(c)(3)(A), which requires HUD to assure that an equitable share of grant funds is used to rehabilitate units suitable for large families.

Although section 150(d) could be read literally and broadly to relieve local governments from complying with § 511.10(k) and section 17(c)(3)(A) for their entire rental rehabilitation programs merely by enacting an ordinance which requires rehabilitation to meet seismic standards, HUD believes that an interpretation which would so emasculate section 17(c)(3)(A) and § 511.10(k) was not intended. Congress has been particularly concerned about the production of units for large families in the program and it should not be presumed to have allowed such a broad exception.

HUD believes that Congress intended only to relieve affected grantees from the need to comply with section 17(c)(3)(A) and § 511.10(k) to the extent that the grantee *actually uses its rental rehabilitation grant amounts* to rehabilitate units initially occupied by very low-income families to meet locally required seismic standards. Therefore, the interim rule would amend § 511.10(k) to add a new paragraph (2) which provides in substance that HUD will, through data reported by grantees to HUD under the program's Cash and Management Information System, determine compliance with the existing 70 percent two-bedroom requirement of § 511.10(k) by excluding from the base upon which the 70 percent is calculated the amount of its grant that a grantee uses to rehabilitate to required seismic standards units initially occupied by very low-income persons. In addition, the grantee is required to include in its program description a citation of the local seismic standard ordinance.

The rule allows *any* grantee, including an urban county, State or consortium, to exclude grant amounts used to rehabilitate less than two-bedroom, very low-income units to meet seismic standards, as long as the rehabilitation meets seismic standards required by the jurisdiction in which such property is located. Rehabilitation to meet seismic standards required only by State law is not covered by section 150(d) or by § 511.10(k)(2), as amended by this interim rule. Furthermore, in accordance with program policy with respect to other per-unit limitations, the rule does not require grantees to determine whether the rental rehabilitation funds themselves, or the owner's matching funds, were used to rehabilitate the project to seismic standards. As long as a unit did not meet local seismic standards immediately before the rehabilitation and the unit is brought into compliance as a result of the rehabilitation, the unit's proportionate share of the total grant amount expended on the project may be excluded from the 70 percent two-bedroom calculation, to the extent smaller units in the project are occupied by very low-income families after rehabilitation.

The provisions of the interim rule on rehabilitation to meet seismic standards (§ 511.10(k)(2)) apply prospectively only to FY 1988 and later year grant funds.

Finally, the interim rule includes the policy HUD has announced in its annual fund allocation notices for 1985, 1986 and 1987 concerning three or more bedroom units. Section 103(c)(2) of the Housing and Community Development Technical Amendments Act of 1984 (Pub. L. 98-479) revised section 17(c)(3)(A) of the United States Housing Act of 1937 to clarify that the Secretary shall assure that an equitable share of funds is used to provide units for families with children, particularly large families requiring three or more bedroom units. The Department determined that the three or more bedroom feature of this amendment could be satisfied if at least 15 percent of the units rehabilitated nationwide with Rental Rehabilitation Program grant amounts are units of three or more bedrooms. Section 511.10(k)(1) of the interim rule has been revised to reflect that determination and to provide that HUD reserves the right to establish mandatory three or more bedroom unit targets for specific grantees if the national goal is in danger of not being met, or if HUD finds that a grantee's production of three or more bedroom units is significantly below that of similarly situated grantees. Section 511.20(b)(4) is also being revised to require grantees to explain in their program descriptions how they will give selection priority to projects containing three or more bedroom units.

6. *Administrative expenses.* Section 150(e) of the 1987 Act expressly authorizes States and formula cities and counties to retain up to 10 percent of any rental rehabilitation grant amounts they receive for administrative expenses in operating the program. However, the statutory language and the legislative history do not support allowing HUD-

administered grantees to retain up to 10 percent of their respective grants for administrative costs, despite the apparent inequity of this result. In section 17, as a whole, the phrase "receiving resources under subsection (b)," which is used in section 150(e), generally refers to rental rehabilitation formula grantees, and the Conference Report on the 1987 Act (H.R. Rep. No. 100–426, November 6, 1987) confirms that Congress intended to exclude HUD-administered grantees from the administrative costs authority. At page 180, speaking of section 150(e), that Report states: "The conference report contains the House provision with an amendment to require that fees be shared where local governments administer the program in connection with the State and to permit *entitlement communities* to use up to 10 percent of the grant for administrative expenses." (Emphasis added.) HUD believes that the phrase "entitlement communities" must refer to formula grantees, and not to HUD-administered grantees, who apply directly to HUD for funds with no expectation of any particular formula-based or quasi-entitlement grant amount.

Although section 150(e) does not specifically mention administrative expenses by consortia, the Department sees no reason to exclude those entities from the benefits of section 150(e). On the contrary, section 17(k) (final undesignated paragraph) requires the Secretary to encourage consortia to participate in the program, and denying them benefits available to other grantees would have the opposite effect.

Although the statute does not define the term "administrative expenses," HUD is under an executive mandate to adopt the cost eligibility standards of OMB Circular A–87, except as such standards are inconsistent with the law governing the Rental Rehabilitation Program. After review of A–87 and the program legislation, HUD is adopting A–87 as the standard for grantee administrative expense eligibility without change.

Like any other eligible grantee, a State is not *required* to use any of its grant amount for administrative costs, but if it does so, the statute does require the State to make available to units of general local government some portion of the retained percentage, if a unit of local government incurs any administrative costs eligible under OMB Circular A–87 with respect to the program. While HUD wishes to minimize the extent to which it must oversee the relationship between a State and its subrecipient units of general local government, HUD must establish procedures which are reasonably designed to assure that States comply with their statutory cost-sharing mandate, and which permit HUD to monitor such compliance, like any other statutory obligation. In order to maximize grantee flexibility, current regulations have been interpreted to permit a wide variety of administrative arrangements between States and units of general local government relative to the distribution of funds, selection of projects, review of rehabilitation costs, negotiations with owners and entering into project agreements, and other program operations and monitoring. (This interim rule makes technical changes to § 511.51 intended to clarify this flexibility.) However, current regulations also require State grantees to document their administrative arrangements with their units of general local government through "appropriate" written agreements designed to assure compliance with section 17 and Part 511 (see § 511.51(b)(1)).

Similarly, HUD is requiring by this rule that the State's written agreements with local governments participating in the State's program specify the functions that the unit of general local government shall perform and the procedures by which the local government's compensation for administrative expenses incurred in performing those functions is to be calculated and paid. The description of functions may be as general or as specific as the State cares to make it. The more general the description, the more latitude local governments will have, but the State may wish to control the performance of local governments more closely, which it may also do through more detailed elaboration of relative functions in the agreement. HUD will not review the substance of these cost-sharing arrangements, either before or after the fact, but it will monitor and review to assure that all administrative costs being paid with grant funds are in accordance with OMB Circular A–87.

By way of example, the most likely situation in a mixed model State is that both the State and units of general local government will incur eligible administrative expenses, and they will exceed in total the percentage of the grant the State has elected to use for administrative expenses (not to exceed 10 percent). The State-local agreement should anticipate this situation and provide how reimbursement will be apportioned. The statute mandates that a unit of general local government that incurs eligible costs must receive some reimbursement, but not necessarily the same percentage as the State. An agreement might also provide a maximum amount that a local government could receive for administrative expenses; if it incurred more otherwise eligible expenses than that, no additional reimbursement would be paid.

On the other hand, in a State which distributes all funds to State recipients which carry out the program with the minimum of State supervision, the State may simply provide that each State recipient may receive 10 percent of the State recipient's portion of the State's grant for administrative costs, and each State recipient may expend these funds for any eligible administrative cost. That would be perfectly acceptable when included in an agreement between the State and each State recipient.

Grantees are also required by the interim rule to draw down amounts for administrative expenses in accordance with the program's Cash and Management Information System under § 511.74, as closely as possible to the need for payment (the usual standard). The interim rule makes technical amendments to § 511.74 to accommodate drawdowns for administrative expenses. Notwithstanding the authority of States to permit State recipients to draw down rehabilitation funds for projects directly, HUD is requiring that all funds for administrative expenses be drawn down by States. The State will either retain the funds or pay them to a unit of general local government, as agreed between the State and the unit. This decision requires the State initially and continually to enforce its division of funds with its units of general local government, rather than HUD.

Finally, HUD has determined that the maximum amount permissible for administrative expenses must be based upon 10 percent or less of a grantee's *initial* grant obligation for a fiscal year and that only FY 1988 and later year funds are available for administrative costs. These decisions are based on both equity and administrative convenience.

As to the use of FY 1988 and later year funds, all grantees accepted their previous grants without the benefit of administrative expense reimbursement. Some grantees have already totally or largely expended their funds for past years. Since there is no available source of funds to provide administrative cost reimbursement for grantees that have already expended their funds, it would be unfair to give slower performing grantees the benefit of additional funds for administrative costs. However, FY 1988 and later year funds may be used to administer any part of a grantee's

program, not just projects that are being undertaken with FY 1988 and later year funds. In addition, pursuant to the "pre-agreement" costs authority in OMB Circular A–87, HUD is authorizing grantees to incur eligible administrative costs after February 5, 1988, and prior to the effective date of this rule, and then to reimburse themselves from FY 1988 funds after the effective date of this rule for such otherwise eligible administrative costs.

The Department has determined that 10 percent of a grantee's *initial grant obligation* for a particular fiscal year will be the *maximum* available to the grantee for administrative expenses from that year's appropriation.

The Department considered and rejected an alternative approach that would have based the administrative expense limitation on 10 percent of the grant, including all reallocations and excluding all deobligations. To make such a limitation workable, HUD would have been required to adopt a policy of consistently deobligating administrative funds in proportion to the amount of any project funds deobligated, and allowing grantees receiving realloctions to use an additional 10 percent of each reallocation for administrative expenses. The rejected deobligation policy would have presented problems under section 17(l) of the 1937 Act, which prohibits HUD from administratively reducing, or recapturing from future grants, grants which have already been expended on eligible activities. Grantees tend to expend administrative funds at a faster rate than project funds are committed, and authority to deobligate funds under § 511.33(c) is based primarily on lack of progress by grantees in committing project funds. Therefore, HUD is unable under section 17(l) routinely to deobligate expended administrative funds, in proportion to the amount of grant funds that are deobligated, unless HUD were to establish a program requirement that grantees may only incur or drawdown their administrative funds in proportion to their progress in committing funds.

Such a requirement would be an undue restriction on grantees' discretion in structuring their program operations, contrary to the Program's emphasis on State and local discretion, and would fail to take into account that most grantees legitimately have much heavier administrative expenses early in the program year. For example, most grantees develop standard program documents, advertise for project developers and select projects competitively, before making most of their project commitments. State programs, in particular, incur administrative costs at widely varying rates.

A determination that administrative funds may not be routinely deobligated in proportion to § 511.33(c) deobligations tend to mandate that grantees not be permitted to use 10 percent of any reallocations they may receive for administrative costs, since these deobligations are the principal source of funds for reallocation. While there is no legal limitation specifically prohibiting the use of more than 10 percent of the total annual Rental Rehabilitation appropriation for administrative costs, such an administratively imposed limitation is consistent with the spirit of the legislation. Furthermore, while HUD's § 511.33 deobligation/reallocation policies are intended to create an incentive for grantees to utilize their funds expeditiously, HUD believes that the provision of additional administrative funds could be counterproductive and would reduce the amount of funds available for rehabilitating units for lower income tenants. In fact, with proper use of local economies of scale and scheduling the use of the additional funds, HUD does not believe that additional project funds will result in a substantial need for additional administrative funds. Finally, a grantee, of course, must request and accept any reallocation it receives. If a grantee does not have sufficient resources to administer a reallocation, it should not request or accept the additional funds.

HUD emphasizes that any funds which have not been committed to projects on a timely basis or drawn down for administrative costs (as shown under the grantee's account in the program's Cash and Management Information System) are available for deobligation. HUD will not routinely allow a grantee to retain up to 10 percent of its grants for administrative expenses if eligible costs have not been incurred and drawn down. A technical amendment ot § 511.33 has been included in the interim rule to authorize deobligation of unutilized funds set aside in the grantee's account in the program's Cash and Management Information System for administrative expenses, in connection with other § 511.33(c) deobligations. In addition, HUD notes that one of the principal standards for cost eligibility under OMB Circular A–87 is that costs must be "reasonable and necessary." In particular cases, very substantial lack of progress in relation to high levels of administrative costs could be factors contributing to HUD determining that some administrative costs are not "reasonable and necessary," are hence ineligible, and therefore are subject to recapture in a remedial action under § 511.82(c)(3).

7. *Temporary Authority to Use States' Allocation Funds in FmHA-eligible Areas.* Section 311 of the 1987 Act provides that any rental rehabilitation grant amount provided to a State under section 17 that is unutilized from any prior fiscal year shall be available for use in areas eligible for assistance under title V of the Housing Act of 1949, which is administered by the Farmers Home Administration (FmHA). This authority terminates on September 30, 1989, and is described as a demonstration.

This demonstration does not contemplate a special announcement and distribution of funds to State grantees; it operates on uncommittted prior years' funds currently in the hands of States. In FY 1989, FY 1988 funds remaining uncommitted by States will also be available for the demonstration. HUD will furnish instructions to affected grantees with respect to identifying in the Cash and Management Information System projects which are undertaken in title V-eligible areas, to assure that funds are not committed prematurely to such projects and to facilitate HUD's preparation of the necessary report to Congress on the demonstration. Pursuant to the preagreement costs authority in OMB Circular A–87, HUD is authorizing grantees and owners to incur otherwise eligible soft costs for projects in rural areas after February 5, 1988, and prior to the effective date of this rule, but these projects may not be set up in the C/MI System, construction commenced or funds disbursed until the rule is effective.

Under this demonstration, the rules for use of reallocated funds in title V-eligible areas by States are the same as those for any other funds appropriated for the same fiscal year, without regard to when the reallocation grant is made or the type of grantee from which the reallocated funds came. That is, FY 1984, 1985, 1986, and 1987 funds are immediately available for use in title V-eligible areas, whether they have already been reallocated to a State grantee or are reallocated (if possible) later this year. (In accordance with statutory limitations, funds appropriated for fiscal years 1984 and 1985 which are deobligated in 1988 and later years are not available for reallocation.) In FY 1989, fiscal year 1988 funds will also be available for projects in title V-eligible areas. The standards for deobligation and reallocation under section 17(b)(3)

of the statute and § 511.33 of the regulations remain in effect and will continue to be followed by HUD.

However, this demonstration is not available in States with HUD-administered programs. The language of section 150(e) clearly states that a "grant amount provided to a State" is available for use in a title V-eligible area. HUD-administered grantees are not States, and they receive their grants directly from HUD, which is obviously not a State. Also, the language of section 17(e)(2) provides that HUD shall establish regulations and procedures for HUD-administered programs which are comparable to those for cities and urban counties receiving direct grants. In this case, however, the issue is comparability between States, not between other direct grantees, so section 17(e)(2) is not relevant to this point. Therefore, the prohibition against using rental rehabilitation funds in title V-eligible areas remains in effect as to grantees participating in a HUD-administered State Rental Rehabilitation Program.

Notice and Comment Rule Making

The Department believes that the need for prompt implementation of sections 150 (a), (c), (d), (e) and 311 of the 1987 Act, as contemplated by this rule, makes prior notice and comment impracticable and contrary to the public interest. Each of the statutory provisions implemented makes the Rental Rehabilitation Program more accessible and usable to program participants, thus improving the ability of the program to achieve its objective of helping to increase the supply of affordable housing for lower income families. For these reasons, the Department does not believe that it is appropriate to subject this rule to notice and comment rulemaking before making it effective. On the contrary, the Department believes that the public interest is better served by ensuring that the benefits contained in sections 150 (a), (c), (d), (e) and 311 are made available to the public as soon as possible.

Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291. Analysis indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule implements several statutory provisions that improve the Rental Rehabilitation Program. These changes will have neither a significant economic impact on, nor an effect on a substantial number of, small entities.

The Catalog of Federal Domestic Assistance Program number is 14.230. This rule was listed as Sequence No. 995 in the Department's Semiannual Agenda of Regulations published on April 25, 1988 (53 FR 13854) under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 511

Rental rehabilitation grants, Administrative practice and procedure, Grant programs: housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements.

Accordingly, 24 CFR Part 511 is amended to read as follows:

PART 511—RENTAL REHABILITATION GRANT PROGRAM

1. The authority citation for Part 511 continues to read as follows:

Authority: Sec. 17, United States Housing Act of 1937 (42 U.S.C. 1437o); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 511.1 is revised to read as follows:

§ 511.1 Applicability and purpose.

(a) This part implements the Rental Rehabilitation Program contained in section 17 of the United States Housing Act of 1937. As more fully described in this part, the program authorizes the Secretary of Housing and Urban Development to make rental rehabilitation grants to help support the rehabilitation of eligible real property to be used for primarily residential rental purposes, and to pay for eligible administrative costs of grantees (not to exceed 10 percent of a grantee's initial grant obligation for FY 1988 and later years). Grants are made on a formula basis to cities having populations of 50,000 or more, urban counties, States, and qualifying consortia of geographically proximate units of general local government. States may use all or part of their grants to carry out their own rental rehabilitation programs or to distribute them to eligible units of general local government. HUD will administer a State's grant if the State chooses not to do so.

(b) The purpose of the program is to help provide affordable, standard housing for lower income families and to increase the availability of housing units for the use of voucher and certificate holders under Section 8 of the United States Housing Act of 1937. Subject to the availability of vouchers and certificates as determined by HUD, HUD will allocate such assistance for use in connection with the program to minimize the displacement of families residing in projects to be rehabilitated with rental rehabilitation grants, and to assist families who move from projects undergoing assisted rehabilitation activities.

3. Section 511.3 is revised to read as follows:

§ 511.3 Technical assistance.

Subject to the availability of appropriations, the Secretary is authorized to enter into grants, contracts, or cooperative agreements to provide technical assistance to participants in the Rental Rehabilitation Program. Technical assistance is the provision of skills or knowledge by those organizations or individuals that possess them to program participants to help them plan, develop, or administer their rental rehabilitation programs and activities more effectively. Technical assistance includes, but is not limited to, the collection, processing, and dissemination of program information useful for local and national program management. The assistance may be provided in several forms including, but not limited to, written information, person-to-person exchanges, seminars, workshops, or training sessions.

4. Section 511.4 is revised to read as follows:

§ 511.4 Administrative expenses.

(a) Any formula grantee (which does not include units of general local government receiving grants from HUD as provided in § 511.52) may use not to exceed 10 percent of the grant amount initially obligated to the grantee for Federal fiscal year 1988 and later fiscal years for administrative costs eligible under paragraphs (b) and (c) of this section. Eligible grantees may draw down funds to pay for eligible administrative costs through HUD's Cash and Management Information System in accordance with § 511.74 of this part.

(b) Eligible administrative expenses are reasonable and necessary costs, as described in OMB Circular A–87, incurred by the grantee itself, or by a unit of general local government pursuant to a written cost-sharing agreement with a State grantee (see § 511.51(a) of this part), in carrying out the Rental Rehabilitation Program in accordance with this part. Administrative expenses do not include costs of rehabilitation which are incurred by and charged to project owners as eligible project costs under § 511.10(g) of this part.

(c) A State grantee shall determine the amount of its rental rehabilitation grant that it will permit to be used for administrative expenses, not to exceed the maximum permitted by this section The State grantee shall share the amount of its rental rehabilitation grant designated for administrative expenses with units of general local government that incur eligible administrative costs in carrying out the Rental Rehabilitation Program, whether the unit of general local government receives a distribution of funds from the State and selects and manages projects independently as a State recipient or whether it performs less comprehensive functions by agreement with the State. Before any eligible administrative expenses are incurred by a unit of general local government under a State's grant in FY 1988 or any later fiscal year, the cost-sharing arrangement shall be specified in a written agreement pursuant to § 511.51(a) of this part between the State grantee and each unit of general local government that receives payment from the State for administrative expenses under this part. HUD will not review the relative sharing of administrative expenses between the State and affected units of general local government, but pursuant to §§ 511.73 and 511.80 it will review and audit the State's program on the eligibility of administrative expenses paid with program funds.

§ 511.10 [Amended]

5. In § 511.10, paragraphs (e)(2) and (k) are revised, to read as follows:

* * * * *

(e) * * *

(2) *Per unit.* (i) Except as provided in paragraph (e)(2)(ii) of this section, the amount of a rental rehabilitation grant for any project may not exceed the sum of the following dollar amounts for dwelling units in the project:

(A) $5,000 per unit for units with no bedrooms.

(B) $6,500 per unit for units with one bedroom.

(C) $7,500 per unit for units with two bedrooms.

(D) $8,000 per unit for units with three or more bedrooms.

(ii) HUD may approve higher amounts for projects in areas of high material and labor costs, as provided in this paragraph (e)(2)(ii) where the grantee demonstrates to HUD's satisfaction that the higher amount is necessary to conduct a rental rehabilitation program and that the grantee has taken every appropriate step to contain the amount of the rental rehabilitation grant within the dollar limits specified in paragraph (e)(2)(i) of this section. These higher amounts will be determined as follows:

(A) HUD may approve higher per unit amounts for a grantee's entire rental rehabilitation program up to, but not to exceed, an amount derived by applying the HUD-approved High Cost Percentage for Base Cities for the area to the applicable per unit dollar limits, and

(B) HUD may, on a project-by-project basis, increase the levels permitted under paragraph (e)(2)(i) of this section by multiplying the original limits by up to 140 percent and then adding the product to the original limits. Therefore, the maximum high cost grant amounts per unit that may be approved are 240 percent of the original per unit limits

* * * * *

(k) *Use of rental rehabilitation grants for housing for families.* (1) Each grantee shall ensure that an equitable share of rental rehabilitation grant amounts will be used to assist in the provision of housing designed for occupancy by families, including large families with children. This requirement will be deemed satisfied if at least 70 percent of the rental rehabilitation grant amount made available to the grantee is used to rehabilitate units containing two or more bedrooms. HUD may approve a lower percentage standard submitted by the grantee in its program description under § 511.20, or thereafter, based on HUD's determination that the lower standard is justified by factors such as a short waiting list of large families requiring assistance, the nature of the housing stock available for rehabilitation, or the financial infeasibility of rehabilitating larger units. HUD will assure that on a national basis at least 15 percent of each year's rental rehabilitation grant amounts are used to rehabilitate units containing three or more bedrooms. HUD reserves the right prospectively to establish three- or more bedroom unit targets for individual grantees if the national goal is in danger of not being met, or if HUD finds that a grantee's production of three or more bedroom units is signficantly below that of grantees under similar circumstances.

(2) If a unit of general local government has an ordinance which requires rehabilitation to meet seismic standards, any grantee may use up to the full amount of its annual rental rehabilitation grant for Federal fiscal year 1988 and later years (including reallocations under § 511.33(b) of funds for the same fiscal year) without regard to the requirements of paragraph (k)(1) of this section, but only to the extent it uses such grant amounts to rehabilitate units to meet the seismic standards required by the local ordinance and the units rehabilitated are initially occupied after rehabilitation by very low-income families. The grantee shall identify as prescribed by HUD in reports required under the Cash and Management Information System authorized by § 511.74 units which: (i) Have been rehabilitated to meet the requirements of a local seismic standards ordinance, *and* (ii) are initially occupied by very low-income families after rehabilitation. In determining compliance with paragraph (k)(1) of this section, HUD will multiply the rental rehabilitation grant amounts for the projects containing units rehabilitated to meet local seismic standards by the percentage of units in such projects which are rehabilitated to meet seismic standards and which are initially occupied by very low-income families after rehabilitation, and then HUD will deduct the product from the amount of the grantee's rental rehabilitation grant for the year (including the reallocations of same fiscal year funds). The grantee will be required to meet the 70 percent, or other approved percentage, requirement of paragraph (k)(1) of this section only as to the remainder of its annual grant, so calculated.

* * * * *

6. Section 511.20(b)(4) is revised to read as follows:

§ 511.20 Program descriptions.

* * * * *

(b) * * *

(4) *Use of rental rehabilitation grants for housing for families.* A description of the grantee's plan to ensure that an equitable share of rental rehabilitation grant amounts will be used to assist in the provision of housing designed for occupancy by families, particularly families requiring three or more bedrooms. The grantee will describe how it plans to give priority to projects containing three or more bedroom units. If applicable, the grantee will include an explanation of why it proposes to use less than 70 percent of its rental rehabilitation grant for the rehabilitation of units containing two or more bedrooms, as prescribed in § 511.10(k) (1) and (2). Such explanation shall include the citation to any local seismic standard ordinance.

* * * * *

§ 511.33 [Amended]

7. Section 511.33(c) is revised by adding the following new sentence after the first sentence thereof:

(c) * * * In connection with any such deobligation of project funds, HUD may also deobligate any unutilized funds set aside for administrative expenses in the grantee's program account under the Cash and Management Information system established under § 511.74. * * *

§ 511.50 [Amended]

8. Section 511.50 is amended by redesignating the entire existing text as paragraph (a), and by removing the period at the end and adding ", except as specified in paragraph (b) of this section." A new paragraph (b) is added which reads as follows:

* * * * *

(b) For fiscal year 1988, uncommitted fiscal year 1987 and earlier year funds may be used by State grantees and units of general local government receiving funds from State grantees in areas eligible for assistance under title V of the Housing Act of 1949. For fiscal year 1989, uncommitted fiscal year 1988 and earlier year funds may similarly be used by State grantees and their units of general local government in title V-eligible areas. In accordance with statutory limitations, funds appropriated for fiscal years 1984 and 1985 which are deobligated in 1988 and later years are not available for reallocation. This authority to enter into commitments with owners for projects in title V-eligible areas expires on September 30, 1989. Authority to use funds in title V-eligible areas is not available for HUD-administered programs under § 511.52.

§ 511.51 [Amended]

9. Section 511.51 (a) and (b) are revised to read as follows:

(a) *Type of program.* A State that elects to administer its allocation in accordance with § 511.50 may, in its discretion, use all or part of its rental rehabilitation grant amounts either (1) to carry out its own rental rehabilitation program without the active participation of units of general local government; (2) to distribute grant amounts to State recipients which independently select, enter into commitments with owners for, and manage projects, or (3) to carry out mixed programs in which both the State and all or some units of general local government each perform specified program functions. In cases in paragraphs (a)(2) and (3) of this section, States shall enter into written agreements with each State recipient or other unit of general local government which performs administrative functions in connection with the State's rental rehabilitation grant describing (whether very generally or more specifically) the functions that the unit of general local government shall perform and the terms and conditions under which the unit of general local government participates in the program, including the procedures by which the unit of general local government's compensation for its administrative expenses incurred in performing the authorized functions is to be calculated and paid.

(b) *Program requirements.* States shall carry out their rental rehabilitation programs in accordance with the requirements of this part and other applicable laws. In addition, States that use units of general local government to perform program functions shall:

(1) Ensure that the units of general local government carry out their rental rehabilitation programs in accordance with requirements of this part and other applicable laws. States shall include in their agreements with their units of general local government such additional provisions as may be appropriate to ensure such compliance and to enable the State to carry out its responsibilities under this part, including the withdrawal and reallocation of rental rehabilitation grant amounts based on unit of general local government noncompliance (including State recipient failure to meet a schedule submitted by the State under § 511.20(b)(9)); and

(2) Conduct such reviews and audits of their units of local government as may be appropriate to determine whether the units of general local government, including State recipients, have carried out their programs in accordance with the requirements of this part, whether they have done so in a timely manner, and whether they have continuing capacity to do so in a timely manner.

* * * * *

10. Section 511.74 is revised to read as follows:

§ 511.74 Disbursement of rental rehabilitation grant amounts: Cash and Management Information System.

After the grantee executes the grant agreement and complies with the requirements under Part 58 of this title for release of funds, HUD will disburse rental rehabilitation grant amounts on a project-by-project basis or for administrative expenses by electronic funds transfer to the designated depository institution of the grantee, or of a State recipient (funds for project rehabilitation only). Only States are permitted to request and receive disbursements from HUD of State grant funds for administrative expenses. Any disbursement is conditioned upon the submission of satisfactory information by the grantee or State recipient about the project or the administrative expenses and compliance with other procedures specified by HUD in HUD's issuances concerning the Rental Rehabilitation Program Cash and Management Information System. Copies of these issuances may be obtained from HUD Field Offices. Advances shall be requested by the grantee or State recipient for disbursement by HUD as closely as possible to the time that they are needed by a grantee or State recipient and the owner to pay eligible rehabilitation costs or by a grantee to pay eligible administrative expenses. Rehabilitation funds shall immediately be disbursed by the grantee or State recipient and the owner in payment for eligible rehabilitation costs and shall not be disbursed at any time, relative to a project's matching funds, in any greater proportion than the proportion of rental rehabilitation funds to matching funds for the project.

Dated: June 9, 1988.

Jack R. Stokvis,

General Deputy Assistant Secretary for Community Planning and Development, CD.

[FR Doc. 88-15146 Filed 7-5-88; 8:45 am]

BILLING CODE 4210-29-M

federal register

Wednesday
July 6, 1988

Part IX

Department of Education

Notice Inviting Applications for New Awards for Fiscal Year 1988 Under the Graduate Assistance in Areas of National Need Program

DEPARTMENT OF EDUCATION

[CFDA No. 84.200]

Notice Inviting Applications for New Awards for Fiscal Year 1988 Under the Graduate Assistance in Areas of National Need Program

Purpose of Program: The purpose of the Graduate Assistance in Areas of National Need Program is to provide, through academic departments and programs of institutions of higher education, a fellowship program to assist graduate students of superior ability who demonstrate financial need, in order to sustain and enhance the capacity for teaching and research in areas of national need.

Deadline for Transmittal of Applications: August 10, 1988.

Available Funds: $7,659,000.

Estimated Range of Awards: $100,000–$500,000.

Estimated Average Size of Awards: $250,000.

Estimated Number of Awards: 30.

Project Period: 36 months.

Application: Since this is the first year of this program, the estimates stated above are projections for the guidance of potential applicants. The Department is not bound by these estimates. This notice is a complete application package containing all the necessary information, application forms, and instructions needed to apply for a grant under this program. No other application package is necessary. Applicants are directed to the appendix of this notice for applications and instructions.

Applicable Authority: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations) and Part 78 (Education Appeal Board). The Graduate Assistance in Areas of National Need Program is authorized under Part D of Title IX of the Higher Education Act of 1965, as amended by Pub. L. 99–498, the Higher Education Amendments of 1986 (20 U.S.C. 1134l–1134q).

Eligibility: (a)(1) Any academic department, program or unit (hereafter referred to as "academic department") of an institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, as amended, that offers a program of post-baccalaureate study leading to a graduate degree in an area of national need as established in the *PRIORITIES* section of this notice and that has been in existence for at least four years at the time of application is eligible to apply for a grant.

(2) An academic department, as described in paragraph (a)(1) of this section, may submit a joint application with one or more nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. For the purposes of this program, a nondegree granting institution is any organization which—

(i) Is described in section 501(c)(3) of the Internal Revenue Code of 1954, and is exempt from tax under section 501(a) of the Code;

(ii) Is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

(iii) Is not a private foundation;

(iv) Has academic personnel for instruction and counseling who meet the standards of the institution of higher education; and

(v) Has necessary research resources not otherwise readily available in the institution of higher education.

(b) An individual is eligible to receive an award from an academic department participating in this program if the individual—

(1) Has financial need, as determined under criteria developed by the institution of higher education;

(2) Has an excellent academic record in the individual's previous program or programs of study;

(3) Plans a teaching or research career;

(4) Plans to pursue the highest possible degree available in the individual's course of study; and

(5)(i) Is a citizen or national of the United States;

(ii) Is a permanent resident of the United States;

(iii) Provides evidence from the Immigration and Naturalization Service that he or she is in the United States for other than temporary purposes with the intention of becoming a citizen or permanent resident; or

(iv) Is a permanent resident of the Republic of Palau or the Commonwealth of the Northern Mariana Islands.

(c) An institution must provide assurances that it will seek talented students from traditionally underrepresented backgrounds. The Secretary suggests that applicants consider "traditionally underrepresented backgrounds" to mean minorities and other groups, including women, who historically have been underrepresented in the specific area of graduate study for which a fellowship is awarded.

(d) The academic department of the institution of higher education is responsible for making accurate determination concerning the criteria in paragraph (b).

Funding requirements: (a) No grant to an academic department of an institution of higher education shall be less than $100,000 nor greater than $500,000 for any fiscal year.

(b) From at least 60 percent of the funds received under this program, an academic department of an institution of higher education shall, consistent with the limitations in this paragraph, make commitments to graduate students at any point of their graduate study to provide stipends for applicable expenses except for tuition and fees for the length of time necessary to complete the course of graduate study. Because original awards to an academic department of an institution of higher education may not be made for longer than three years, an academic department of an institution of higher education may not make a commitment to a graduate student for more than three calendar years of support. If an institution successfully competes for a new award in a subsequent competition, a student may receive additional support, but in no case shall a student receive more than five calendar years of support.

(c) The size of the stipend awarded to students each year shall be determined by the institution, except that no annual stipend award under this program may exceed $10,000, or the demonstrated level of need, determined on the basis of criteria developed by the institution, whichever is less.

(d) From the remainder of funds, the academic department of program may award fellowship recipients amounts to pay tuition, fees and other costs of education not included in student stipends. No grant funds may be used for the general operational overhead of the academic department.

Matching Requirements: An academic department must provide from non-Federal sources an amount at least equal to 25 percent of the grant. The matching funds must be used for the same purposes as the grant funds, as specified in paragraphs (a) through (d) of the Funding Requirements section of this notice.

Priorities: In accordance with the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.105(c)(3), the Secretary has established absolute priorities for fiscal year 1988 for applications that propose to provide fellowships in the following areas of national need: 1—Chemistry, 2—Engineering, 3—Mathematics, and 4—Physics. Only applications proposing to provide fellowships in one or more of

these areas of national need will be considered under this competition.

Selection Criteria: (a)(1) The Secretary uses the following selection criteria to evaluate applications for new grants under the Graduate Assistance in Areas of National Need Program.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses with the criterion.

(b) *The criteria.*—(1) *Meeting the purposes of the authorizing statute.* (30 points) The Secretary reviews each application to determine how well the project will meet the purpose of the statute that authorizes the program, as stated in the Purpose of Program section of this notice, including consideration of—

(i) The objectives of the project; and

(ii) How the objectives of the project further the purpose of the authorizing statute.

(Note: A statement of the purpose of the authorizing statute is found in the Purpose of Program section of this notice.)

(2) *Extent of need for the project.* (30 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the statute that authorizes the program, as stated in the Purpose of the Program section of this notice, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program, as stated in the Purpose of Program section of this notice;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(Note: The authorizing statute requires that grantees, in making fellowship awards, seek students from traditionally underrepresented backgrounds.)

(4) *Quality of key personnel.* (7 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraph (b)(4)(i) (A) and (B) of this section will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i) (A) and (B) of this section, the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost-effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (5 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(7) *Adequacy of resources.* (3 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

Selection Procedures: (a) Geographically balanced review panels of nationally recognized scholars will use the selection criteria to evaluate, score, and rank applications.

(b) Consistent with an allocation of awards based on quality of competing applications, an equitable geographic distribution among eligible public and private institutions of higher education will be promoted.

Instructions for Transmittal of Applications:

No grant may be awarded unless a complete form has been received.

(a) If an applicant wants a new grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.200) Washington, DC 20202.

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.200) Room 3633, 7th & D Streets, SW., ROB–3, Washington, DC 20202.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped, self-addressed post card containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 6a of this application form for Federal assistance (Standard Form 2424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Assessment of Educational Impact: The Secretary requests comments on whether any information collection in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

For Further Information Contact: For specific information concerning the program, contact: Dr. Allen P. Cissell, Division of Higher Education Incentive

Programs, Office of Postsecondary Education, Department of Education, Room 3022, ROB-3, Mail Stop 3327, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732-4415.

Program Authority: 20 U.S.C., 1134l-q.

Dated: June 10, 1988.

William J. Bennett,

Secretary of Education.

Appendix—Application Instructions and Forms

This application is divided into three parts. These parts are organized in the same manner that the submitted application should be organized. The parts are as follows:

Part I: Federal Assistance Face Sheet (Form SF-424 and instructions).

Part II: Budget Information (form and instructions).

Part III: Application Narrative.

Instructions for Part I—Federal Assistance Face Sheet (SF-424) The standard form is used by applicants as a required face sheet for preapplications and applications submitted in accordance with OMB Circular A-102. The applicant completes only items 1-23. Items 24-33 are completed by Federal agencies. Where possible, information has been preprinted for your convenience. Items which are not applicable have been marked "N/A."

Below is a list of instructions to assist you in completing the applicable items on the form.

ITEM

2a. Applicant's own control number, if desired.

2b. Date form is prepared (at applicant's option).

4a-h. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of the person who can provide further information about this request.

5. If the applicant's organization has been assigned an ED-CRS number consisting of the IRS employer identification number prefixed by "1" and suffixed by a two-digit number, enter the full entity number in block 5.

7. Provide the title and a summary description of the project.

8. "City" includes town, township or other municipality.

9. List only largest unit or units affected, such as State, county or city.

10. Indicate the estimated number of persons directly benefiting from the project.

12a. Amount requested or to be contributed during the first funding/budget period by the Federal Government.

12b-e. Enter the amount of matching funds.

12f. Enter the total of Items 12a-e.

13 & 15. Self-explanatory.

16. Indicate the estimated number of months to complete project after Federal funds are available.

18 & 21. Self-explanatory.

23. Name, title and signature of authorized representative of legal applicant.

BILLING CODE 4000-01-M

OMB Approval No. 0348-0006

FEDERAL ASSISTANCE

1 TYPE OF SUBMISSION (Mark appropriate box)
- ☐ NOTICE OF INTENT (OPTIONAL)
- ☐ PREAPPLICATION
- ☒ APPLICATION

2 APPLICANT'S APPLICATION IDENTIFIER
- a. NUMBER
- b. DATE Year month day 19

3 STATE APPLICATION IDENTIFIER (NOTE TO BE ASSIGNED BY STATE)
- a. NUMBER
- b. DATE ASSIGNED Year month day 19

Leave Blank

SECTION I—APPLICANT/RECIPIENT DATA

4 LEGAL APPLICANT/RECIPIENT
- a. Applicant Name
- b. Organization Unit
- c. Street/P.O. Box
- d. City
- e. County
- f. State
- g. ZIP Code
- h. Contact Person (Name & Telephone No.)

5 EMPLOYER IDENTIFICATION NUMBER (EIN)

6 PROGRAM (From CFDA)
- a. NUMBER 84 * 200
- MULTIPLE ☐
- b. TITLE Graduate Assistance in Areas of National Need

7 TITLE OF APPLICANT'S PROJECT (Use section IV of this form to provide a summary description of the project.)

8 TYPE OF APPLICANT/RECIPIENT
A—State; B—Interstate; C—Substate Organization; D—County; E—City; F—School District; G—Special Purpose District; H—Community Action Agency; I—Higher Educational Institution; J—Indian Tribe; K—Other (Specify)
Enter appropriate letter ☐

9 AREA OF PROJECT IMPACT (Names of cities, counties, states, etc.)

10 ESTIMATED NUMBER OF PERSONS BENEFITING

11 TYPE OF ASSISTANCE
A—Basic Grant; B—Supplemental Grant; C—Loan; D—Insurance; E—Other
Enter appropriate letter(s) A

12 PROPOSED FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. Total	$	.00

13 CONGRESSIONAL DISTRICTS OF
- a. APPLICANT
- b. PROJECT

15 PROJECT START DATE Year month day 19

16 PROJECT DURATION Months

18 DATE DUE TO FEDERAL AGENCY ► Year month day 19

14 TYPE OF APPLICATION
A—New; B—Renewal; C—Revision; D—Continuation; E—Augmentation
Enter appropriate letter A

17 TYPE OF CHANGE (For 14. of 14e)
A—Increase Dollars; B—Decrease Dollars; C—Increase Duration; D—Decrease Duration; E—Cancellation; F—Other (Specify)
Enter appropriate letter(s)

19 FEDERAL AGENCY TO RECEIVE REQUEST: U.S. Department of Education
- a. ORGANIZATIONAL UNIT (IF APPROPRIATE): Application Control Center
- b. ADMINISTRATIVE CONTACT (IF KNOWN): Charles I. Griffith, Director
- c. ADDRESS: 400 Maryland Avenue, S.W. Washington, D.C. 20202

20 EXISTING FEDERAL GRANT IDENTIFICATION NUMBER: NA

21 REMARKS ADDED ☐ Yes ☐ No

SECTION II—CERTIFICATION

22 THE APPLICANT CERTIFIES THAT ► To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.
- a. YES, THIS NOTICE OF INTENT/PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____
- b. NO, PROGRAM IS NOT COVERED BY E.O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW ☐

23 CERTIFYING REPRESENTATIVE
- a. TYPED NAME AND TITLE
- b. SIGNATURE

SECTION III—FEDERAL AGENCY ACTION

24 APPLICATION RECEIVED Year month day 19

25. FEDERAL APPLICATION IDENTIFICATION NUMBER

26. FEDERAL GRANT IDENTIFICATION

27 ACTION TAKEN
- ☐ a. AWARDED
- ☐ b. REJECTED
- ☐ c. RETURNED FOR AMENDMENT
- ☐ d. RETURNED FOR E.O. 12372 SUBMISSION BY APPLICANT TO STATE
- ☐ e. DEFERRED
- ☐ f. WITHDRAWN

28 FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

29. ACTION DATE ► Year month day 19

30. STARTING DATE Year month date 19

31 CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number): Dr. Allen P. Cissell (202) 732-4415

32 ENDING DATE Year month date 19

33 REMARKS ADDED ☐ Yes ☐ No

NSN 7540-01-008-8162
PREVIOUS EDITION IS NOT USABLE

424-103

STANDARD FORM 424 PAGE 1 (Rev. 4-84)
Prescribed by OMB Circular A-102

PART II

BUDGET INFORMATION

GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

FISCAL YEAR 1988

SECTION A - SUMMARY OF FELLOWSHIPS

AREA OF APPLICATION	NUMBER OF FELLOWSHIPS REQUESTED

SECTION B - FUNDS REQUESTED AND COST SHARING

1. Federal Funds Requested for Student Stipends	$
2. Federal Funds Requested for Tuition, Fees and Other Costs of Education Not Included in Student Stipends.	$
3. Total Federal Funds Requested	$
4. Non-Federal Funds	$
Total Program Funds	$

BILLING CODE 4000-01-C

Instructions for Part II—Budget Information

Heading Information: Enter the current fiscal year.

Section A—Summary of Fellowships

Enter the number of fellowships requested for area of application.

Section B—Funds Requested and Cost Sharing

1. Federal Funds Requested for Student Stipends: Enter the dollar amount of Federal funds requested for student stipends for applicable expenses except for tuition and fees. (At least 60% of the funds received under this program must be used to provide stipends.) See *"FUNDING REQUIREMENTS."*)

2. Federal Funds Requested for Tuition, Fees and Other Costs of Education Not Included in Student Stipends: Enter the dollar amount of Federal funds requested for tuition, fees and other costs of education not included in student stipends.

3. Total Federal Funds Requested: Enter the total Federal funds requested (sum of 1 and 2). Total Federal funds requested must not be less than $100,000 nor greater than $500,000 per year.

4. Non-Federal Funds: Enter the dollar amount of funds to be provided from other sources, e.g., state governments, local governments, private organizations, etc., which must equal at least 25 percent of the amount of Federal funds requested. Enter the total program funds (sum of 3 and 4).

Instructions for Part III—Application Narrative

Before preparing the Application Narrative, an applicant should read carefully the information regarding priorities, and the *SELECTION CRITERIA* the Secretary uses to evaluate applications.

The narrative should—

1. Begin with an Abstract; that is, a summary of the proposed project;

2. Describe the current academic program and the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this notice;

3. Set forth policies and procedures to ensure that Federal funds made available under this program will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of the program and in no case to supplant those funds;

4. Set forth policies and procedures to assure that, in making fellowship awards under this part, the institution will make awards to individuals who—

(A) Have financial need, as determined under criteria developed by the institution;

(B) Have excellent academic records in their previous programs of study;

(C) Plan teaching or research careers;

(D) Plan to pursue the highest possible degree available in their course of study; and

(E) To the extent possible, are from traditionally underrepresented backgrounds. The Secretary suggests that applicants consider that "traditionally underrepresented backgrounds" mean minorities and other groups, including women, who historically have been underrepresented in the specific area of graduate study for which a fellowship is awarded; and

5. Include any other pertinent information that might assist the Seretary in reviewing the application.

Please limit the Application Narrative to no more than 25 doublespaced, typed pages (on one side only).

Assurances

The president of the institution, or his/her representative, must certify that the assurances listed below will be met if the applicant receives funds under this program. The signature of the applicant on Item 23 (b) of the cover page (Standard Form 424) certifies compliance with the assurances. (See the printed comment in Item 22 of the cover page.)

1. In the event that funds made available to he academic department under the program are insufficient to provide the assistance due a student under the commitment entered into between the academic department and the student, the academic department will endeavor, from any funds available to it to fulfill the commitment to the student.

2. The applicant will ensure that no student shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, or if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

3. The applicant will comply with the matching and funding requirements contained in the *FUNDING REQUIREMENTS* and *MATCHING REQUIREMENTS* sections of this application notice.

[FR Doc. 88-15225 Filed 7-5-88; 8:45 am]

BILLING CODE 4000-01-M

federal register

Wednesday
July 6, 1988

Part X

The President

Proclamation 5839—United States-Canada Days of Peace and Friendship

Federal Register
Vol. 53, No. 129
Wednesday, July 6, 1988

Presidential Documents

Title 3—

The President

Proclamation 5839 of July 1, 1988

United States-Canada Days of Peace and Friendship, 1988

By the President of the United States of America

A Proclamation

The enduring friendship between the American and Canadian peoples is based on our similar aspirations for liberty, justice, individual rights, and democratic values. Our governments differ in form but embody these same principles. Bound by a common vision of the future, the United States and Canada are working together to fulfill international responsibilities in the defense of freedom and lasting peace throughout the world.

Our friendship is reflected as well in our extensive trade with each other. Canada and the United States are each other's most important trading partners. We also have the world's largest bilateral trading relationship, and the recently signed Free Trade Agreement, when implemented, will increase prosperity in both our countries and further strengthen the close ties we enjoy.

July 2 and 3 are an especially good time to commemorate the unique relationship between Americans and Canadians, because these two days fall between beloved holidays—Canada Day on July 1 and America's Independence Day on the Fourth of July. May our celebration of U.S.-Canada Days of Peace and Friendship ever remind us of the history of mutual goodwill that unites us and of the sacrifices so many have made in each country for the freedom, justice, and peace we cherish.

The Congress of the United States, by House Joint Resolution 587, has designated July 2 and 3, 1988, as "United States-Canada Days of Peace and Friendship" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim July 2 and 3, 1988, as United States-Canada Days of Peace and Friendship. I call upon the people of the United States to observe these days with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of July, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 88-15333
Filed 7-5-88; 11:29 am]
Billing code 3195-01-M

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Vol. 53, No. 129

Wednesday, July 6, 1988

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FEDERAL REGISTER PAGES AND DATES, JULY

CFR PARTS AFFECTED DURING JULY

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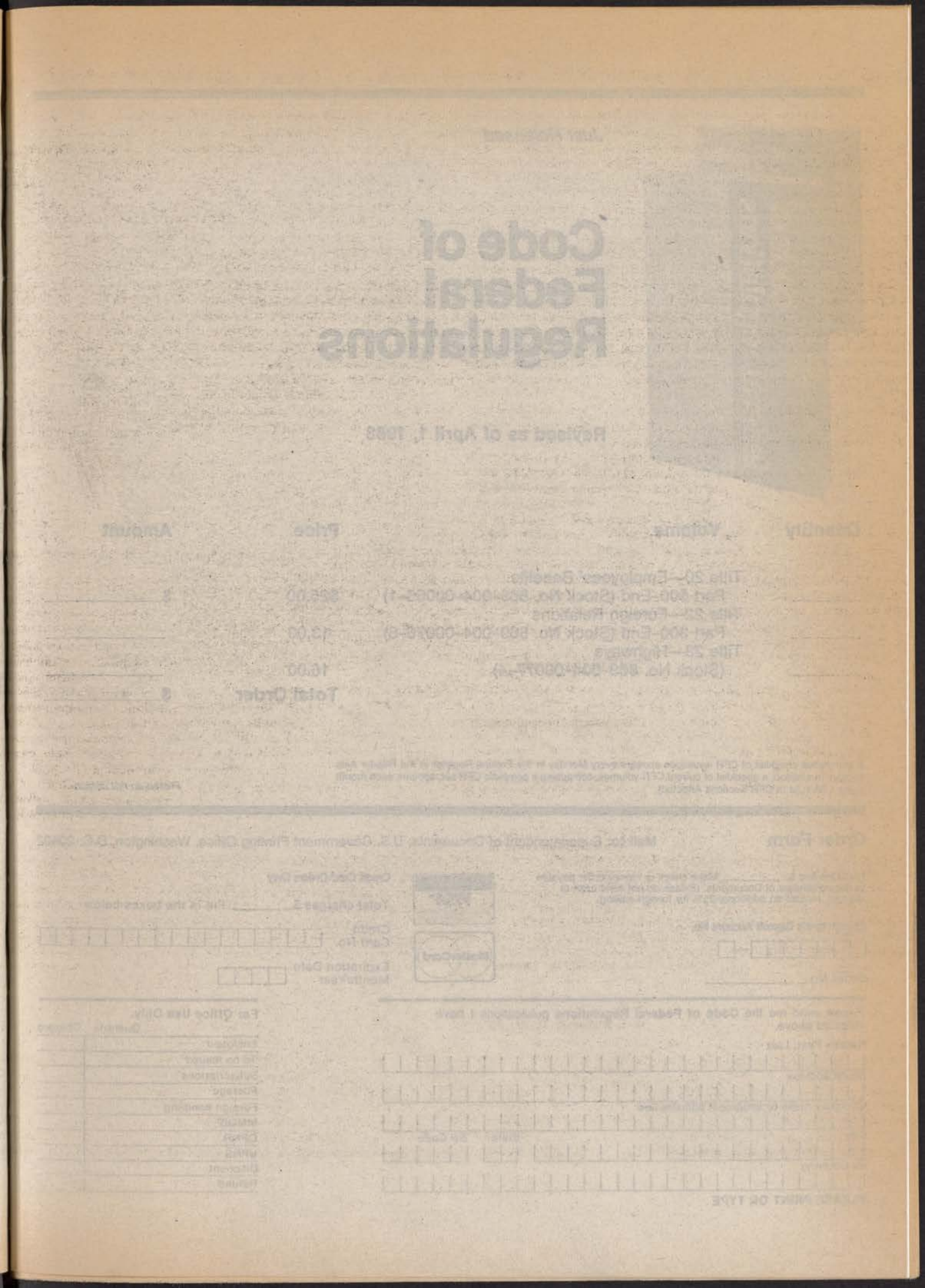
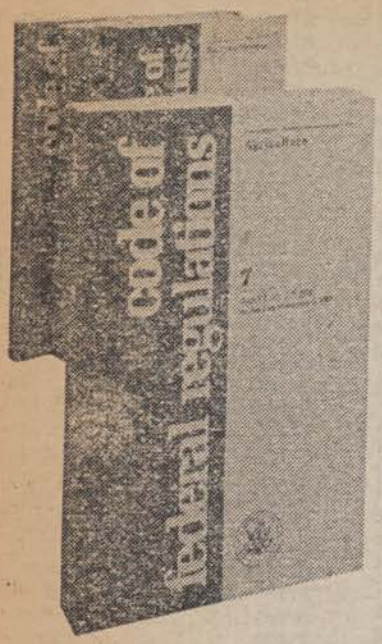
H.J. Res. 485/Pub. L. 100-359

Designating June 26 through July 2, 1988, as "National Safety Belt Use Week." (June 30, 1988; 102 Stat. 682; 1 page) Price: $1.00

H.R. 2470/Pub. L. 100-360

Medicare Catastrophic Coverage Act of 1988. (July 1, 1988; 102 Stat. 683; 135 pages) Price: $3.75





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