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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905

[Docket No. AMS-FV-88-068]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Relaxation of Handling Requirements for Remainder of 1987-88 Shipping Season

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is adopting without modification as a final rule the provisions of an interim final rule which relaxed the minimum size requirement for shipments of domestic and imported white seedless grapefruit from size 48 (3 9/16 inches in diameter) to size 56 (3 5/16 inches in diameter) for the period May 9–August 21, 1988. In addition, the rule relaxed the minimum external grade requirement for domestic, export, and import shipments of pink and white seedless grapefruit from Improved No. 2 to U.S. No. 2 Russet for the period June 1–August 21, 1988. Effective August 22, 1988, tighter handling requirements will resume for seedless grapefruit. Also, the rule relaxed the minimum grade requirement for domestic shipments of Valencia and other late type oranges from U.S. No. 1 to U.S. No. 1 Golden for the period July 1–September 25, 1988. Effective September 26, 1988, tighter handling requirements will resume for Valencia and other late type oranges. Such relaxations were warranted by the grade, size, and maturity of the remaining 1987–88 season crop, and market demand conditions for these fruits.

EFFECTIVE DATE: July 14, 1988.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 475–3918.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

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

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

There are approximately 100 handlers of Florida oranges, grapefruit, tangerines, and tangelos subject to regulation under the Florida citrus marketing order, approximately 13,000 orange, grapefruit, tangerine, and tangelo producers in Florida, and approximately 26 importers who import grapefruit into the United States. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. A minority of these handlers and a majority of these producers and importers may be classified as small entities. A review of audit reports which was recently completed indicates that a majority of the handlers are large entities, and a minority being small entities. Thus, the finding in the interim final rule that a majority of the handlers are small entities has been changed in this final rule to reflect this new finding.

An interim final rule amending § 905.306 Florida Orange, Grapefruit, Tangerine, and Tangelo Regulation 6 was issued May 9, 1988, and published in the **Federal Register** (53 FR 17169, May 16, 1988). Section 905.306 specifies minimum grade and size requirements for fresh Florida oranges, grapefruit, tangerines, and tangelos regulated under Marketing Order 905. That rule provided that interested persons could file public comments through June 15, 1988. No comments were received.

The interim final rule temporarily relaxed the minimum size requirement for domestic and import shipments of white seedless grapefruit from size 48 (3 9/16 inches in diameter) to size 56 (3 5/16 inches in diameter) for the period May 9, 1988, through August 21, 1988. Also, the minimum external grade requirement for domestic, export, and import shipments of pink and white seedless grapefruit was temporarily relaxed from Improved No. 2 to U.S. No. 2 Russet for the period June 1, 1988, through August 21, 1988. In addition, the minimum grade requirement for domestic shipments of Valencia and other late type oranges was temporarily relaxed from U.S. No. 1 to U.S. No. 1 Golden for the period July 1, 1988, through September 25, 1988. The relaxations for grapefruit will remain in effect through August 21, 1988, and for Valencia oranges through September 25, 1988, by which times 1987–88 season shipments of these fruits will be finished.

The relaxed handling requirements for pink and white seedless grapefruit and Valencia and other late type oranges is only for the remainder of the 1987–88 shipping seasons for these fruits. Tighter handling requirements, as specified in § 905.306, will resume for seedless grapefruit effective August 22, 1988, and for Valencia and other late type oranges effective September 26, 1988. The resumption of tighter requirements for 1988–89 season shipments is based upon the maturity, size, quality, and flavor characteristics of these fruits early in the shipping season.

The committee unanimously recommended the relaxed handling requirements for grapefruit and Valencia oranges at its May 3, 1988 meeting. It

recommended that the size relaxation for white seedless grapefruit be made effective as soon as possible; that the grade relaxation for pink and white seedless grapefruit be made effective June 1, 1988; and that the grade relaxation for Valencia and other late type oranges be made effective July 1, 1988. The committee reported that at that time only a small portion of the Florida 1987–88 season grapefruit crop remained to be harvested, and that the crop would not remain in a condition to ship fresh much longer. Also, much of the remaining grapefruit crop was not in a condition to be shipped to distant export markets, and very few processing plants were utilizing grapefruit at that time of the season. The committee also estimated that most of the Valencia orange crop will be shipped by July 1, 1988, and that increased amounts of the fruit remaining for shipment at that time will have increased amounts of external discoloration. The changes in grade and size requirements reflected the composition of the remaining crop and prospective supply conditions, and were designed to maximize shipments to fresh market channels.

Section 905.306 was issued on a continuing basis subject to modification, suspension, or termination by the Secretary. Paragraph (a) of § 905.306 provides that no handler shall ship between the production area and any point outside thereof, in the continental United States, Canada, or Mexico, specified varieties of oranges, grapefruit, tangerines and tangelos unless such varieties meet the minimum grade and size requirements prescribed in Table I. Paragraph (b) of § 905.306 provides that no handler shall ship fruit to any destination outside the continental United States, other than Canada or Mexico, unless the specified varieties meet the requirements prescribed in Table II.

The Citrus Administrative Committee, which administers the program locally, meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida oranges, grapefruit, tangerines, and tangelos. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

Some Florida orange and grapefruit shipments are exempt from the minimum grade and size requirements effective under the marketing order. Handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day under a minimum quantity exemption provision. Also, handlers may ship up to two standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale, under the current exemption provisions. Fruit shipped for animal feed is also exempt under specific conditions. In addition, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements.

Section 8e of the Act (7 U.S.C. 608e–1) provides that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Since this action continues the relaxed minimum size requirement for domestically produced white seedless grapefruit and the relaxed minimum external grade requirement for domestically produced pink and white grapefruit, the continued relaxations are also applicable to imported pink and white seedless grapefruit.

Grapefruit import requirements are specified in § 944.106 (7 CFR Part 944), which requires that the various varieties of grapefruit imported into the United States meet the same grade and size requirements as those specified for Florida grapefruit in Table I of paragraph (a) in § 905.306. Section 944.106 was issued under section 8e of the Act. An exemption provision in the grapefruit import regulation permits persons to import up to 10 standard packed ⅘-bushel cartons exempt from the import requirements.

The minimum grade and size requirements, specified herein, reflect the committee's and the Department's appraisal of the need to relax the minimum size requirements applicable to domestic and import shipments of white seedless grapefruit; the minimum grade requirement applicable to the domestic, export, and import shipments of pink and white seedless grapefruit; and the minimum grade requirement applicable to domestic shipments of Valencia oranges. This rule recognizes current and prospective supply and demand for these fruits and continues to permit handlers to ship fruit meeting the relaxed requirements to meet market needs. No problems with fruit quality maturity, and size are expected in the marketplace because of the continuation of relaxed requirements.

Therefore, the Department's view is that the impact of this action upon producers, handlers, and importers would be beneficial because it will enable handlers to provide grapefruit and Valencia oranges consistent with buyer requirements. The application of minimum grade and size requirements to Florida grapefruit and Valencia oranges, and to imported grapefruit over the past several years, has resulted in fruit of acceptable grade and size being shipped to fresh markets.

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

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

Pursuant to 5 U.S.C. 553, it is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action continues relaxed handling requirements currently in effect for Florida grapefruit and Valencia and other late type oranges; (2) handlers of these fruits are aware of this action which was recommended unanimously by the committee at a public meeting and they are prepared to continue operating in accordance with the requirements; (3) shipment of the 1987–88 season Florida grapefruit and Valencia orange crops is nearly finished; (4) the grapefruit import requirements are mandatory under section 8e of the Act; (5) the interim final rule provided a 30-day period for filing comments, and no comments were received; and (6) no useful purpose would be served by delaying the effective date of this action until 30 days after publication.

List of Subject in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

For the reasons set forth in the preamble, the following action pertaining to 7 CFR Part 905 is taken:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR Part 905 continues to read as follows:

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

§ 905.306 [Amended]

2. Accordingly, the interim final rule amending § 905.306, which was published in the **Federal Register** (53 FR 17171, May 16, 1988), is adopted as a final rule without change.

Dated: July 11, 1988.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Serivce.

[FR Doc. 88–15893 Filed 7–13–88; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Parts 1823, 1864, 1902, 1941, 1942, 1943, 1944, 1945, and 1951

Implementation of Concentration Banking System (CBS)

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is amending its regulations to reflect changes in the internal handling of collections. This action is necessary because of the implementation of the Concentration Banking System (CBS). FmHA offices under CBS (more than 98 percent of all field offices) must use those systems for collections. The intended effect of these amendments is to implement CBS, thereby enabling the Government to realize substantial savings through more expeditious processing of collections.

EFFECTIVE DATE: July 14, 1988.

FOR FURTHER INFORMATION CONTACT: Ed Douglas, Debt Management Specialist, telephone (202) 475–4425, Farmers Home Administration, U.S. Department of Agriculture, Room 5507, South Agriculture Building, Washington, DC 20250.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and, since this action has no impact on FmHA borrowers or other members of the public, it has been determined to be exempt from those requirements because it involves only internal agency management. While these amendments do change the techniques used by FmHA for processing collections, these changes concern only processing after collections are received by FmHA. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves internal agency management and publication for comment is unnecessary.

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

For reasons set forth in the Final Rule related to Notice 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), this activity is related to the following programs that are subject to intergovernment consultations with State and local officials:

10.405—Farm Labor Housing Loan and Grants
10.411—Rural Housing Site Loans (Sections 523 and 524 Site Loans)
10.414—Resource Conservation and Development Loans
10.415—Rural Rental Housing Loans
10.416—Soil and Water Loans
10.418—Water and Waste Disposal System for Rural Communities
10.419—Watershed Protection and Flood Prevention Loans
10.420—Rural Self-Help Housing Technical Assistance (Section 523 Technical Assistance)
10.422—Business and Industrial Loans
10.423—Community Facilities Loans
10.427—Rural Rental Assistance Payment (Rental Assistance)

In turn, the following programs to which this activity is also related, are not subject to Executive Order 12372:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.410—Low Income Housing Loans (Section 502 Rural Housing Loans)
10.417—Very Low-Income Housing Repair Loans and Grants (Section 504 Rural Housing Loans and Grants)
10.421—Indian Tribes and Tribal Corporation Loans
10.428—Economic Emergency Loans

List of Subjects

7 CFR Part 1823

Credit.

7 CFR Part 1864

Accounting, Loan programs—Agriculture, Rural areas.

7 CFR Part 1902

Accounting, Banks, banking, Grant programs—Housing and community development, Loan programs—Agriculture, Loan programs—Housing and community development.

7 CFR Part 1941

Crops, Livestock, Loan programs—Agriculture, Rural areas, Youth.

7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

7 CFR Part 1943

Credit, Loan programs—Agriculture, Recreation, Water resources.

7 CFR Part 1944

Aged, Administrative practice and procedure, Handicapped, Farm labor housing, Grant programs—Housing and community development, Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Migrant labor, Mobile homes, Mortgages, Nonprofit organizations, Public housing, Rent subsidies, Rural housing.

7 CFR Part 1945

Agriculture, Disaster assistance, Livestock, Loan programs—Agriculture.

7 CFR Part 1951

Accounting, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Mortgages, Collection of loan payments and depositing payments through the Concentration Banking System (CBS), Financial institutions.

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

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

1. The authority citation for Part 1823 is revised to read as follows:

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

Subpart I—Processing Loans to Associations (Except for Domestic Water and Waste Disposal)

2. Section 1823.275(b)(1)(ii) is revised to read as follows:

§ 1823.275 Applications not receiving favorable consideration and loan cancellation.

* * * * *

(b) * * *

(1) * * *

(ii) In a direct loan or a loan made from the ACIF, if the check has been received or is received subsequently in the County Office, the County Supervisor will return it through the Concentration Banking System (CBS) as prescribed in FmHA Instruction 1951–B (available in any FmHA office), or, if an office is not using CBS, the check will be returned to the Finance Office with an original of Form FmHA 1940–10.

* * * * *

PART 1864—DEBT SETTLEMENT

3. The authority citation for Part 1864 is revised to read as follows:

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

4. Section 1864.15(b)(1) is revised to read as follows:

§ 1864.15 Preparation and processing of Form FmHA 1956–1.

* * * * *

(b) * * *

(1) Except as provided in the next sentence, payments offered by debtors in compromise or adjustment of debts will be deposited in accordance with FmHA Instruction 1951–B (available in any FmHA office). If a borrower submits a check bearing a restrictive notation or submits an accompanying letter containing restrictive statements and has not signed Form FmHA 1956–1, the check and the letter containing the restrictive statements will be sent to the State Office with an explanation of the circumstances and the State Office will determine with the advice of OGC how to handle the check. The use of restrictive notations will be discouraged to the fullest extent possible.

* * * * *

PART 1902—SUPERVISED BANK ACCOUNTS

5. The authority citation for Part 1902 is revised to read as follows:

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

Subpart A—Loan and Grant Disbursement

6. Section 1902.2 is amended by revising paragraph (b) to read as follows:

§ 1902.2 Policies concerning disbursement of funds.

* * * * *

(b) For all construction loans and those loans using multiple advances, only the actual amount to be disbursed at loan closing will be requested through State Office terminals. Subsequent checks will be ordered as needed through State Office terminals.

* * * * *

7. Section 1902.3 is amended by removing paragraph (b), redesignating current paragraphs (c) and (d) as paragraphs (b) and (c), respectively, and revising paragraph (a) to read as follows:

§ 1902.3 Procedures to follow in fund disbursement.

(a) The District Director or County Supervisor will determine during loan approval the amount(s) of loan check(s)—full or partial—and forward such request to process through State Office terminals.

* * * * *

8. Subpart C, consisting of § 1902.101 through 1902.150 is added to read as follows:

Subpart C—Selecting a Financial Institution for the Concentration Banking System (CBS)

Sec.

§§ 1902.101 through 1902.103 [Reserved]

§ 1902.104 Establishing or changing a TLA.

(a) *Establishing a TLA.* (1) After a FI has been selected by the FmHA field office, the FmHA office will provide the State Office with the name and address of the FI selected.

(2) The FmHA field office must have the FI execute a MOU for CBS. Form FmHA 1902–7, will be completed when the MOU is executed. The FmHA field office will complete item 1 and the FI will complete the rest of the summary. Instructions for completing this form are in the FMI. The FmHA field office will forward three signed copies of the MOU together with the original and two copies of Form FMHA 1902–7 to the State Office coordinator. The State Office coordinator will check for the following common errors before submitting to the: Cash Management Staff, FmHA Finance Office, Mail Code FC–32, 1520 Market Street, St. Louis, MO 63103.

(i) Check to see that the local bank has signed all copies of the MOU and has affixed its seal next to the signature

(ii) Check signature blocks to insure that the local FmHA office has not signed in any of the blocks provided for the local bank and Treasury. This agreement is between the local bank and Treasury and FmHA will not be a party to the agreement.

(iii) Do not allow the bank to cross out or change any clauses in the MOU. Treasury will not accept modified agreements.

(iv) Do not allow the bank to retype the agreement as this would require a word-for-word verification of the entire document to determine whether anything had been changed.

(3) The Cash Management Staff will submit the MOU's to Treasury for signature along with the original and one copy of Form FmHA 1902–7. Treasury will sign the copies of the MOU, send one copy to the FI, one to the local FmHA office, and keep one copy for the files. Treasury will notify the Cash Management Staff if a MOU is rejected.

(4) The local FmHA office must obtain selected information from the FI for funds transfer purposes on CBS including information necessary to establish a compensation account to receive ACH transfers from the concentrator bank.

§§ 1902.105 through 1902.149 [Reserved]

§ 1902.150 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and have been assigned OMB Control Number 0575–0128.

PART 1941—OPERATING LOANS

9. The authority citation for Part 1941 continues to read as follows:

Authority: 7 U.S.C. 1989, 7 CFR 2.23 and 7 CFR 2.70.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

§ 1941.33 [Amended]

10. Section 1941.33 is amended by removing paragraphs (c)(1) and (c)(3), and by redesignating paragraphs (c)(2) and (c)(4) as (c)(1) and (c)(2).

11. Section 1941.35(b) is revised to read as follows:

§ 1941.35 Actions after loan approval.

* * * * *

(b) *Cancellation of loan check and/or obligation.* If, for any reason, a loan check or obligation will be cancelled, the County Supervisor will notify the State Office and the Finance Office of loan cancellation by using Form 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation." If a check received in the County Office is to be canceled, the check will be returned through Concentration Banking System (CBS), as prescribed in FmHA Instruction 1951–B (available in any FmHA office) or, if an office is not using CBS, the check will be returned to the Finance Office with an original of Form FmHA 1940–10. (See FmHA Instruction 102.1, a copy of which may be obtained in any FmHA office.)

* * * * *

PART 1942—ASSOCIATIONS

12. The authority citation for Part 1942 continues to read as follows:

Authority: 7 U.S.C. 1989, 7 CFR 2.23 and 7 CFR 2.70.

Subpart A—Community Facility Loans

§ 1942.6 [Amended]

13. Section 1942.6 is amended by removing paragraph (d)(1) and redesignating current paragraphs (d)(2) and (d)(3) as (d)(1) and (d)(2), respectively.

14. Section 1942.12(a) is revised to read as follows:

§ 1942.12 Loan cancellation.

* * * * *

(a) *Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation."* The District Director or State Director may prepare and execute Form FmHA 1940–10 in accordance with the Forms Manual Insert (FMI). For a loan made from the RDIF, if the check has been received or is subsequently received in the District Office, the District Director will return it through Concentration Banking System (CBS) as prescribed in FmHA Instruction 1951–B (available in any FmHA office) or, if an office is not using CBS, return it to the Finance Office with an original of Form FmHA 1940–10.

* * * * *

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

15. The authority citation for Part 1943 continues to read as follows:

Authority: 7 U.S.C. 1989, 7 CFR 2.23 and 7 CFR 2.70.

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

§ 1943.33 [Amended]

16. Section 1943.33 is amended by removing paragraphs (c)(1) and (c)(3), and redesignating paragraphs (c)(2) and (c)(4) as (c)(1) and (c)(2).

17. Section 1943.35 is amended by revising paragraph (c)(1) to read as follows:

§ 1943.35 Action after loan approval.

* * * * *

(c) * * *

(1) The County Supervisor will notify the State Office of loan cancellation by using Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation." The County Office will send a copy of Form FmHA 1940–10 to the designated attorney, Regional Attorney, or the title insurance company representative providing loan closing instructions to indicate that the loan has been canceled. If a check received in the County Office is to be canceled, the check will be returned through Concentration Banking System (CBS) as prescribed in FmHA Instruction 1951–B, (available in any FmHA office) or, if an office is not using CBS, the check will be returned to the Finance Office with an original of Form FmHA 1940–10.

* * * * *

18. Section 1943.35(e) is amended by changing in the last sentence, the words "Finance Office" to read "State Office."

Subpart B—Insured Soil and Water Loan Policies, Procedures and Authorizations

§ 1943.83 [Amended]

19. Section 1943.83 is amended by removing paragraphs (c)(1) and (c)(3), and redesignating paragraphs (c)(2) and (c)(4) as (c)(1) and (c)(2).

20. Section 1943.85 is amended by revising paragraph (c)(1) to read as follows:

§ 1943.85 Action after loan approval.

* * * * *

(c) * * *

(1) The County Supervisor will notify the State Office of loan cancellation by using Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation." The County Office will send a copy of Form FmHA 1940–10 to the designated attorney, Regional Attorney, or the title insurance company representative providing loan closing instructions to indicate the loan has been canceled. If a check received in the County Office is to be canceled, the check will be returned through Concentration Banking System (CBS) as prescribed in FmHA Instruction 1951–B (available in any FmHA office), or, if an office is not using CBS, the check will be returned to the Finance Office with an original of Form FmHA 1940–10.

* * * * *

Subpart C—Insured Recreation Loan Policies, Procedures and Authorizations

21. In § 1943.133, paragraphs (b)(2)(i) and (d)(1) are amended by changing the reference "Form FmHA 440–1" to read "Form FmHA 1940–1."

22. Section 1943.133 is amended by revising paragraph (c) to read as follows:

§ 1943.133 Loan approval or disapproval.

* * * * *

(c) *Distribution of forms after loan approval.* The applicable docket forms will be distributed as outlined below by the loan approval official after a loan is approved.

(1) The original of Form FmHA 1940–1 and the remainder of the loan docket will be retained in the County Office.

(2) A signed copy of Form FmHA 1940–1 will be sent to the borrower on date of loan approval.

* * * * *

23. Section 1943.135 is amended by revising the introductory text of paragraph (a), by revising the first sentence of paragraph (a)(2), and by revising paragraph (c)(1) to read as follows:

§ 1943.135 Action after loan approval.

(a) *Requesting check.* If real estate will not be taken as security or if real estate is taken as security and satisfactory title evidence is obtained prior to loan approval or when the County Supervisor is reasonably certain that satisfactory title evidence can be obtained so the loan can be closed within 20 working days from the date of the check, loan funds may be requested at the time of loan approval through State Office terminals. If funds are not requested when the loan is approved, advances in the amount needed will be requested through State Office terminals. The original Form FmHA 440–57 will be retained in the County Office. The initial loan advance will be requested when loan approval conditions can be met, satisfactory title to real estate security can be provided, and a date has been set for loan closing.

* * * * *

(2) When loan funds cannot be disbursed as outlined in paragraph (a)(1) of this section, the amount needed to

meet the immediate needs of the borrower will be requested through State Office terminals. * * *

* * * * *

(c) * * *

(1) The County Supervisor will notify the State Office of loan cancellation by using Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation." The County Office will send a copy of Form FmHA 1940–10 to the designated attorney, Regional Attorney, or the title insurance company representative providing loan closing instructions to indicate that the loan has been canceled, the check will be returned through Concentration Banking System (CBS) as prescribed in FmHA Instruction 1951–B (available in any FmHA office) or, if an office is not using CBS, the check will be returned to the Finance Office with an original of Form FmHA 1940–10.

* * * * *

24. Section 1943.135(e) is amended by changing, in the last sentence, the words "Finance Office" to read "State Office."

PART 1944—HOUSING

25. The authority citation for Part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480, 7 CFR 2.23 and 7 CFR 2.70.

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

26. Section 1944.32 is amended by revising paragraphs (a)(1) and (c) to read as follows:

§ 1944.32 Actions subsequent to loan approval.

(a) * * *

(1) A loan check may be requested when all approval conditions can be met and necessary curative actions have been taken to provide a satisfactory title to real estate security. All check requests will be requested through State Office terminals.

* * * * *

(c) *Cancellation of loan.* Loans may be canceled before loan closing by the use of Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation," prepared in accordance with the FMI for the form. Checks received in the County Office will be returned through Concentration Banking System (CBS) as prescribed in FmHA Instruction 1951–B (available in any FmHA office) or if an office is not using CBS, checks will be returned with the original Form FmHA 1940–10 to the Finance Office. Interested parties will be notified of the cancellation as provided in Part 1807 of this chapter (FmHA Instruction 427.1). If the cancellation is not a voluntary action by the applicant, the applicant will be notified in accordance with § 1910.6(b) of Subpart A of Part 1910 of this chapter.

* * * * *

27. Section 1944.33(f) is revised to read as follows:

§ 1944.33 Loan closing..

* * * * *

(f) *Direct Payments.* Direct payment coupons for all new borrowers, including transferees, will be retained in the County Office until the borrower has made at least six monthly payments on time. The coupons may then be delivered to the borrower and payments made directly to the Finance Office. The County Supervisor may retain the payment coupons for a longer period if such action is considered to be necessary to determine that the borrower is able to make timely payments as agreed. Payments made to the County Office will be processed through CBS as prescribed in FmHA Instruction 1951–B (available in any FmHA office) or, if an office is not using CBS, payments will be forwarded to the Finance Office with the appropriate direct payment coupon in the Finance Office mail. Cash payments, refunds, and extra payments made by borrowers will be handled in accordance with Subpart B of Part 1951 (available in any FmHA office).

* * * * *

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations

28. Section 1944.175(e) is revised to read as follows:

§ 1944.175 Actions subsequent to loan and/or grant approval.

* * * * *

(e) *Cancellation of loan.* Loans and/or grants may be canceled after approval and before loan closing as follows:

(1) The District Director will prepare Form FmHA 1944–53, "Multiple Family Housing Cancellation of U.S. Treasury Check and/or Obligation," in accordance with the Forms Manual Insert (FMI) as prescribed in FmHA Instruction 1951–B (available in any FmHA office).

(2) If the loan or grant check is received in the District Office, the District Director will return it through Concentration Banking System (CBS) as prescribed in FmHA Instruction 1951–B (available in any FmHA office) or, if an office is not using CBS, the check will be returned to the Finance Office with original of Form FmHA 1944–53.

(3) All interested parties will be notified of the cancellation as provided in Part 1807 of this chapter (FmHA Instruction 427.1).

* * * * *

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

29. Section 1944.235 is amended by removing paragraph (f)(2), redesignating current paragraph (f)(3) as paragraph (f)(2), and revising paragraph (f)(1) to read as follows:

§ 1944.235 Actions subsequent to loan approval.

* * * * *

(f) * * *

(1) *Treasury check method.* If the loan check is received in the District Office, the District Director will return the check through the Concentration Banking System (CBS) as prescribed in FmHA Instruction 1951–B (available in any FmHA office), or, if an office is not using CBS, the check will be returned to the Finance Office with Form FmHA 1944–53, except if the check was issued by the National Finance Center (NFC). If the check was issued by NFC, cancel under FmHA Instruction 2024–P (available in any FmHA office).

* * * * *

Subpart J—Section 504 Rural Housing Loans and Grants

30. Section 1944.469 (g)(1)(ii)(A) is revised to read as follows:

§ 1944.469 Loan and/or grant closing.

* * * * *

(g) * * *

(1) * * *

(ii) * * *

(A) Any funds returned shall first be applied to reducing a grant. When returning grant funds to the Finance Office, the collecting office will enter payment code 21 (other) on Form FmHA 451–2, "Schedule of Remittances," with a brief explanation ("Recovery of Section 504 Housing Repairs Grants") and return the grant funds through Concentration Banking System (CBS), as prescribed in FmHA Instruction 1951–B (available in any FmHA office). For offices not using CBS, they will forward Form FmHA 451–2 along with the check to the Finance Office.

* * * * *

PART 1945—EMERGENCY

31. The authority citation for Part 1945 continues to read as follows:

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

Subpart C—Economic Emergency Loans

32. Section 1945.126 (b)(3) is revised to read as follows:

§ 1945.126 Cancellation of loan checks and advances.

* * * * *

(b) * * *

(3) Transmit to the Finance Office an original of Form FmHA 1940–10 and Form FmHA 440–57 reflecting the revised repayment schedule. The advance will be cancelled through Concentration Banking System (CBS) as prescribed in FmHA Instruction 1951–B (available in any FmHA office) or, for offices not using CBS, the check will be sent to the Finance Office.

§ 1945.127 [Amended]

33. Section 1945.127 is amended by changing in the last sentence, the words "Finance Office" to read "State Office."

34. Section 1945.128(b) is revised to read as follows:

§ 1945.128 Docket preparation.

* * * * *

(b) *Form FmHA 1940–1, "Request for Obligation of Funds."* A separate Form FmHA 1940–1 will be prepared for each amount of the total loan which has a different purpose (operating or real estate), but Form FmHA 1940–37, "Economic Emergency Loan Analysis," will be prepared to reflect the total loan. When the County Supervisor is reasonably certain that the EE loan can be closed within 20 working days from the date of the check, loan funds may be requested at the time of loan approval through State Office terminals. Loan funds may be scheduled for multiple advances, if appropriate. The amount of the initial advance will be requested through State Office terminals. Subsequent advances may be scheduled by using the State Office terminals. Each advance will be limited to an amount which can be used promptly, usually within sixty days from the date of the check.

* * * * *

Subpart D—Emergency Loan Policies, Procedures and Authorizations

35. Section 1945.185(a) is revised to read as follows:

§ 1945.185 Actions after loan approval.

* * * * *

(a) *Cancellation of loan check and/or obligation.* If, for any reason, a loan check and obligation will be cancelled, the County Supervisory will notify the State Office of loan cancellation by using Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation." If a check received in the County Office is to be cancelled, the check will be returned through Concentration Banking System (CBS) as prescribed in FmHA Instruction 1951–B (available in any FmHA office) or, if an office is not using CBS, returned to the Finance Office with an original of Form FmHA 1940–10 (see FmHA Instruction 102.1, a copy of which is available in any FmHA office.

* * * * *

36. Section 1945.185(c) is amended by changing in the last sentence, the words "Finance Office" to read "State Office."

PART 1951—SERVICING AND COLLECTIONS

37. The authority citation for Part 1951 is revised to read as follows:

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

38. Subpart B, consisting of §§ 1951.51 through 1951.55, is revised to read as follows:

Subpart B—Collections

Sec.

§ 1951.51 General.

This Subpart prescribes the policies and procedures of the Farmers Home Administration (FmHA) for collection of loan payments and depositing payments through the Concentration Banking System (CBS). Under CBA, FmHA field offices select a local financial institution to maintain a Treasury Limited Account (TLA) for depositing FmHA loan collections. Deposits to these accounts are withdrawn daily by the concentrator bank for transfer to the Treasury. Under these procedures, the local FmHA office will deposit the daily office collections in a participating local financial institution and report the amount deposited to a data service facility that is under contract to the concentrator bank. The data service facility will inform the concentrator bank of the amount available in each local financial institution and the concentrator bank will use this information to transfer the funds to the concentrator bank and then to the Treasury.

§§ 1951.52 through 1951.53 [Reserved]

§ 1951.54 Authority.

The provisions of this subpart are applicable to FmHA employees who are authorized to receive collections. Employees listed in Exhibit B of this subpart (available in any FmHA office) are hereby authorized to receive, receipt for, exchange for money orders or bank drafts, and transmit collections or deposit collections in a TLA.

§ 1951.55 Receiving and processing collections.

FmHA offices receive borrower payments either through the mail or in person in the form of checks, money orders, and cash. Payments are recorded on the appropriate accounting forms which are Form FmHA 451–2, Form FmHA 1944–9, or a payment coupon. These documents are used to transmit accounting information to the Finance Office. In addition, the FmHA office records payments on either a management system card, a servicing card, or a rental assistance tracking form, as appropriate. (Note: The borrower's case number will be inserted in any clear space in the upper part of the face of the check, preferably in the upper right hand corner. For Multi-Family Housing, the project number must be inserted after the case number. If the remittance covers more than one borrower, insert the State and County or District Code on the face of the check.)

Dated: March 23, 1988.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88–15545 Filed 7–13–88; 8:45 am]

BILLING CODE 3410–07–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

General Requirements for Decommissioning Nuclear Facilities; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule appearing in the **Federal Register** on June 27, 1988 (53 FR 24018) which establishes technical and financial criteria for decommissioning licensed nuclear facilities. This action is necessary to insert a date that was inadvertently omitted from the final rule.

EFFECTIVE DATE: July 27, 1988.

FOR FURTHER INFORMATION CONTACT:
K. Steyer, C. Feldman, or F. Cardile, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–3824.

SUPPLEMENTARY INFORMATION:

PART 70—DOMESTIC LICENSING SPECIAL NUCLEAR MATERIAL

§ 70.22 [Corrected]

1. On page 24053, the last line of § 70.22(a)(9), should be corrected to read "submitted on or before July 27, 1990."

Dated at Rockville, Maryland, this 11th day of June 1988.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Assistant Secretary of the Commission.

[FR Doc. 88–15856 Filed 7–13–88; 8:45 am]
BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 25531; Amdt. No. 91–203]

RIN 2120–AC66

Transponder with Automatic Altitude Reporting Capability Requirement; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: In the June 21, 1988, issue of the **Federal Register**, the FAA published a final rule regarding transponder with automatic altitude reporting capability requirement (53 FR 23356). The final rule, as published, contained an incorrect paragraph reference. This document serves to correct that error.

EFFECTIVE DATE: July 21, 1988.

FOR FURTHER INFORMATION CONTACT:
A. Wayne Pierce, Air Traffic Rules Branch, ATO–230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8783.

Adoption of the Correction

Document No. 88–14065, Amdt. No. 91–203, published in the **Federal Register** on June 21, 1988 (53 FR 23356), is corrected as follows:

On page 23374, in the third column, last full paragraph titled, "Appendix D", remove "§ 91.24(b)(4)(ii)" and substitute "§ 91.24(b)(5)(ii)," both in the title and in the paragraph text.

Issued in Washington, DC, on July 8, 1988.

John H. Cassidy

Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 88–15814 Filed 7–13–88; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Permanent Regulatory Program; Approval of Amendments; Award of Costs and Attorney's Fees

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of several proposed amendments to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments concern the award of costs and attorney's fees by the Ohio Reclamation Board of Review.

EFFECTIVE DATE: July 14, 1988.

FOR FURTHER INFORMATION CONTACT:
Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43232; Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982 **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and other revisions, modifications, and amendments to the Ohio program are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of Amendments

On August 10, 1987 (52 FR 29515), the Deputy Director of OSMRE approved amendments to the rules of the Ohio Reclamation Board of Review (RBR) at Ohio Administrative Code (OAC) Sections 1513–3–21(E) (3), (4), and (5). These amendments had been required by OSMRE at 30 CFR 935.16(a) so that the standards used by the RBR to award costs and attorney's fees would be no less effective than the Federal counterparts at 43 CFR Part 4.

During the promulgation of the approved rule change, the Ohio Mining and Reclamation Association (OMRA) voiced opposition to the rule change and the RBR withdrew the amendments in a letter dated November 13, 1987 (Administrative Record No. OH–0993). The disputed issues concerning this rule change were subsequently resolved under a settlement agreement filed in *Ohio Mining and Reclamation Association, et al. v. Hodel et al.*, Civil Action No. C2–86–0811 (S.D. Ohio, December 23, 1987) between OMRA, the Mining and Reclamation Council of America, and OSMRE.

By letter dated March 24, 1988 (Administrative Record No. OH–1021), the RBR resubmitted revised amendments to the Ohio Administrative Code (OAC) at Sections 1513–3–21(E)(3), (4), and (5) which reflect the terms of the settlement agreement. The resubmitted changes are briefly summarized below:

(1) The proposed amendments modify OAC Section 1513–3–21(E)(3) to delete the award of costs and expenses to a permittee from persons other than the State of Ohio where the permittee initiates or participates in a proceeding under Chapter 1513 of the Ohio Revised Code and where a finding has been made that the permittee made a substantial contribution to a full and fair determination of the issues.

(2) The proposed amendments would add a new OAC Section 1513–3–21(E)(4) which provides that costs and expenses may be awarded to a permittee from any person if the permittee demonstrates that the person initiated or participated in a proceeding under Chapter 1513 of the Ohio Revised Code in bad faith and for the purpose of harassing or embarrassing the permittee.

(3) The proposed amendments would renumber old OAC Section 1513–3–21(E)(4) as OAC Section 1513–3–21(E)(5) and would modify this provision to provide for the award of costs and expenses to the Ohio Division of Reclamation where the Division demonstrates that any person applied for RBR review pursuant to Chapter 1513 of the Ohio Revised Code, or where any party has participated in such a proceeding, in bad faith and for the purpose of harassing or embarrassing the Division.

OSMRE announced receipt of the proposed amendments in the April 18, 1988 **Federal Register** (53 FR 12705), and,

in the same notice, opened the public comment period and provided opportunity for a public hearing on the substantive adequacy of the proposed amendments.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendments to the Ohio program.

OAC Section 1513–3–21(E) Award of Costs and Expenses

1. *OAC 1513–3–21(E)(3) Awards to a Permittee.* Ohio proposes to delete the provision which allows awards of costs and expenses to a permittee from persons other than the State of Ohio where the permittee initiates or participates in a proceeding under Chapter 1513 of the Ohio Revised Code and where a finding has been made that the permittee made a substantial contribution to a full and fair determination of the issues. The allowance of this type of award to the permittee from the State of Ohio is retained in OAC Section 1513–3–21(E)(3).

Awards of this type to a permittee from persons other than OSMRE are not included in the types of awards authorized under 43 CFR Part 4, Subpart L, Special Rules Applicable to Surface Coal Mining Hearings and Appeals, Section 4.1294. Therefore, the Director finds that the deletion of the provision does not make the Ohio rule any less effective than the analogous Federal regulation. The Director also finds that the retention of the allowance of these awards to the permittee from the State of Ohio is in keeping with the terms of Article 2 of the settlement agreement signed by OSMRE.

2. *OAC 1513–3–21(E)(4) Awards to a Permittee.* Ohio proposes to add a new section (E)(4) authorizing the award of costs and attorney's fees to a permittee from any person if the permittee demonstrates that the person initiated a proceeding under Chapter 1513 of the Ohio Revised Code, or participated in such a proceeding, in bad faith and for the purpose of harassing or embarrassing the permittee.

The proposed language is equivalent to the corresponding Federal rule at 43 CFR 4.1294(d). The Director therefore finds that the proposed rule is no less effective than that Federal regulation. The proposed revision is also in keeping with Article 3 of the settlement agreement which stipulates that the circumstances described in 43 CFR 4.1294(d) are the only ones under which OSMRE will approve the award of attorney's fees to permittees from persons other than the State of Ohio.

3. *OAC 1513–3–21(E)(5) Awards to the Ohio Division of Reclamation.* Ohio proposes to renumber old OAC Section 1513–3–21(E)(4) as OAC Section 1513–3–21(E)(5) and revise this provision to allow for the award of costs and expenses from any person to the Ohio Division of Reclamation (the Division). The revision would specify that these awards are authorized where the Division demonstrates that any person applied for review pursuant to Chapter 1513 of the Ohio Revised Code, or that any party participated in such a proceeding, in bad faith and for the purpose of harassing or embarrassing the Division.

The proposed language is equivalent to the corresponding Federal rule at 43 CFR 4.1294(e). The Director therefore finds that the proposed rule is no less effective than that Federal regulation. This proposed revision at ORC Section 1513–3–21(E)(5) is not discussed in the settlement agreement.

IV. Public and Agency Comments

Public Comments

The public comment period and opportunity to request a public hearing announced in the April 18, 1988 **Federal Register** ended on May 18, 1988. A summary of the comments received and their disposition is given below:

1. At the request of eight individuals, a public hearing was held at OSMRE's Columbus Field Office on May 13, 1988 to provide an opportunity for testimony on the proposed amendments. Six individuals gave verbal testimony at the hearing and these comments, in the form of a written summary of the hearing compiled by OSMRE, were placed in the Ohio Administrative Record (OH–1035). No written statements were received at the hearing.

The commenters at the hearing were landowners or the legal representatives of landowners who have initiated proceedings or presented testimony before the RBR or have attended RBR hearings. The commenters stated that the case record of the RBR shows a consistent prejudice against private citizens who bring actions against coal mining companies and that the RBR has misused its existing authority for the fair determination of mining issues under Ohio law. The commenters felt it is inappropriate to give additional authority to the RBR to award financial penalties against individuals when the RBR has already violated rules promulgated by OSMRE and the State of Ohio outlining the appeal rights of citizens. The commenters stated that the effect of the proposed amendment would be to further discourage citizens from exercising their rights of appeal and due process.

The Director believes that the State of Ohio may amend its program to authorize the award of costs and fees against private individuals in the limited circumstances identified in the proposed rule. As proposed, the rules are consistent with and no less effective than the Federal provisions under 43 CFR 4.1294(d). However, the Director concurs that the proposed rule should not be implemented in a manner that would discourage citizens from exercising their rights to appeal actions or the failure to act.

The standard of bad faith, harassment, or embarrassment is an extraordinary test that would have to be met to allow the award of costs and fees against a private individual and would prohibit the award of costs and fees where the award would discourage the exercise of citizen rights. In the upcoming evaluation year, OSMRE will place special emphasis in its oversight of the Ohio program and the RBR to insure that citizen involvement is not discouraged by improper implementation of this rule.

2. Written comments were also received from a coal mining organization in support of the proposed amendments for recovery of costs and attorney's fees by a permittee from the State of Ohio and from any person under the specified circumstances. The commenter felt that the added provisions were consistent with SMCRA and with 43 CFR 4.1294(c) and (d).

These comments were placed in the Ohio Administrative Record (OH–1032) for these proposed amendments and have been considered by the Director in his findings.

Agency Comments

Pursuant to section 503(b) of SMCRA and the implementing regulations at 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the Ohio program. The Farmers Home Administration responded that it had no comments on the proposed changes. The remaining agencies gave no response.

V. Director's Decision

Based on the findings discussed above, the Director is approving the amendment as submitted on March 24, 1988, and is amending Part 935 of 30 CFR Chapter VII to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to

encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. National Environmental Policy Act

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

2. Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, and 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

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

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

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

Dated: July 7, 1988.

Robert E. Boldt,

Deputy Director.

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

PART 935—OHIO

1. The authority citation for Part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 935.15, a new paragraph (ff) is added to read as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(ff) The following amendments concerning the award of costs and attorney's fees by the Ohio Reclamation Board of Review, as submitted to OSMRE on March 24, 1988, are approved effective July 14, 1988: Revisions of the following provisions of Chapter 1513 of the Ohio Administrative Code: 1513–3–21(E) (3), (4), and (5).

[FR Doc. 88–15797 Filed 7–13–88; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

Petersburg Watershed, Alaska

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture hereby revises the regulations at 36 CFR 251.35 governing access into the Petersburg watershed in the Tongass National Forest, Alaska. The intended effect of the rule is to correct and update technical provisions of the rule and to reduce administrative burdens of managing public access into the watershed by allowing access to public recreation areas without a permit. Revision of this rule arises from review of the existing regulation as required by Executive Order 12291.

EFFECTIVE DATE: This rule is effective August 15, 1988.

FOR FURTHER INFORMATION CONTACT: Rhey Solomon, Watershed and Air Management Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, (703) 235–8163.

SUPPLEMENTARY INFORMATION: The existing regulation governing access to the Petersburg watershed within the Tongass National Forest in Alaska, 36 CFR 251.35, was issued January 3, 1941, to implement the provisions of the Act of October 14, 1940 (54 Stat. 1197). That act authorized protection of the municipal water supply for the town of Petersburg, Alaska. The existing regulation permits Federal and territorial officials and employees of the town of Petersburg to enter the watershed to operate, maintain, and improve the town's water system. The regulation prohibits all other access within the watershed without a permit approved by an official of the town of Petersburg and countersigned by a forest officer. The regulation also permits the removal of timber from the watershed, but only under such conditions as will adequately safeguard the town's water supply.

On September 8, 1987 (52 FR 33839), the Forest Service published a proposed rule changing references to "territorial" officials and "town" and allowing access to public recreation areas without a permit. Since promulgation of the rule in 1941, Alaska became a State, and Petersburg is now denominated as a city. The proposed rule also proposed authorizing public access of the Raven's Roost Trail for travel to the Raven's Roost public recreation cabin and the Alpine Recreation Area without the need for a permit. The proposed rule also expressly acknowledged the right of access by Forest Service and other Federal officials and their agents in the conduct of their official duties.

Because the proposed rule would prohibit unauthorized use, a penalty provision was incorporated so that the public is fully aware of the penalties for violation of the rule. Finally, the contextual sequence and the language of the regulation was revised for ease of understanding and reference.

The disposal of timber on National Forest lands is guided by Forest Plans and, more specifically, regulations found at 36 CFR Part 223. The proposed rule makes reference to the timber sale regulations to make clear the requirements for the disposal of timber within the Petersburg Watershed.

Public Comment and Responses

No public comments were received in response to the proposed rule. Therefore, the proposed rule is adopted with a minor change in paragraph (d) to reference the general penalty provision in 7 CFR 261.1b.

Regulatory Impact

This rule has been reviewed under E.O. 12291 and procedures of the Department of Agriculture. It has been determined that this is not a major rule. The regulation will have little or no effect on the economy since the changes are technical and administrative. The Secretary of Agriculture has determined that this action will not have a significant economic impact on a substantial number of small entities, since it essentially affects only one community, Petersburg, Alaska, and it is principally a procedural conforming regulation that does not substantially alter the existing regulation.

Based on both past experience and environmental analysis, this proposed rule will have no significant effect on the human environment, individually or cumulatively. The removal of the permit requirement for entrance to public

recreation areas and the conformance of the timber removal provision to subsequent legislation will not, in and of themselves, result in any additional impacts on the watershed or management direction for the area. Therefore, this action is categorically excluded from any requirement for documentation in an environmental assessment or environmental impact statement (40 CFR 1508.4).

List of Subjects in 36 CFR Part 251

Environmental protection, National Forests, Water resources, Watersheds.

Therefore, for the reasons set forth above, Subpart A of Part 251 of Title 36 of the Code of Federal Regulation is hereby amended as follows:

PART 251—LAND USES

Subpart A—Miscellaneous Land Uses

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

Authority: 7 U.S.C. 1011; 16 U.S.C. 518, 551, 678a; Public Law 76-867. 54 Stat. 1197.

2. Revise § 251.35 to read as follows:

§ 251.35 Petersburg Watershed.

(a) Except as authorized in paragraphs (b) and (c), access to lands within the Petersburg watershed, Tongass National Forest, as described in the Act of October 17, 1940 (54 Stat. 1197), is prohibited.

(b) Access to lands within the Petersburg watershed is hereby authorized, without further written approval, for the following routine purposes:

(1) The discharge of official duties related to management of the Tongass National Forest by Federal employees, holders of Forest Service contracts, or Forest Service agents;

(2) The operation, maintenance, and improvement of the municipal water system by Federal and State officials and employees of the city of Petersburg; and

(3) Public recreational use of the Raven's Roost Trail for access to and from the Raven's Roost public recreation cabin and the Alpine Recreation Area.

(c) Any person who wishes to enter upon the lands within the watershed for purposes other than those listed in paragraph (b) must obtain a permit that has been signed by the appropriate city official and countersigned by the District Ranger.

(d) Unauthorized entrance upon lands within the watershed is subject to punishment as provided in 36 CFR 261.1b.

(e) The Forest Supervisor of the Stikine Area of the Tongass National Forest may authorize the removal of timber from the watershed under the regulations governing disposal of National Forest timber (36 CFR Part 223). In any removal of timber from the watershed, the Forest Supervisor shall provide adequate safeguards for the protection of the Petersburg municipal water supply.

Date: July 6, 1988.

Richard E. Lyng,

Secretary.

[FR Doc. 88-15895 Filed 7-13-88; 8:45 am]

BILLING CODE 3410-11-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-26

[FPMR Amendment E-264]

Reporting Quality Deficiencies

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation provides current policies and procedures on reporting quality deficiencies and deletes text that is no longer appropriate. The regulation will provide improved direction for agencies regarding the reporting of quality deficiencies which will allow appropriate action to be taken to remove defective items from the supply system and to document contractor performance files for use in future procurements.

EFFECTIVE DATE: May 31, 1988.

FOR FURTHER INFORMATION CONTACT: Diana K. Price, Quality Assurance Division on 703-557-1435 or FTS 557-1435.

SUPPLEMENTARY INFORMATION: The GSA has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-26

Government property management, Inventory management, Procurement programs, Reporting requirements, Shipments and billings, Sources of supply.

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

1. The authority citation for Part 101-26 continues to read as follows:

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

2. The table of contents for Part 101-26 is amended by revising and adding the following entries:

Subpart 101-26.8—Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings

3. Section 101-26.803-1 is revised as follows:

§ 101-26.803-1 Reporting discrepancies or deficiencies.

Discrepancies or deficiencies in shipments or material occur in four broad categories: Quality deficiencies, shipping discrepancies, transportation discrepancies, and billing discrepancies. When discrepancies or deficiencies occur, activities shall document them with sufficient information to enable initiation and processing of claims against suppliers and carriers. Procedures for documenting discrepancies or deficiencies are set forth in the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings, issued by the Commissioner, Federal Supply Service. Copies of the handbook may be obtained by submitting a GSA Form 457, FSS Publications Mailing List Application, (referencing mailing list code number ODDH-0001) to the following address: General Services Administration, Centralized Mailing List Service (CMLS-C), 819 Taylor Street, P.O. Box 17077, Fort Worth, TX 76102-007.

Note.—Copies of the GSA Form 457 may be obtained by writing the Centralized Mailing List Service.

4. Section 101-26.803-2 is revised to read as follows:

§ 101-26.803-2 Reporting quality deficiencies.

(a) Quality deficiencies are defined as defects or nonconforming conditions which limit or prohibit the item received from fulfilling its intended purpose. Quality deficiencies include deficiencies in design, specification, material, manufacturing, and workmanship. Timely reporting of all quality

deficiencies is essential to maintain an acceptable quality level for common-use items. GSA relies on agency reporting of quality deficiencies in order to act to remove the defective items from the supply system as well as to document contractor performance files for use in future procurements.

(b) A product deficiency which may cause death, injury, or severe occupational illness, or directly restrict the mission capabilities of the using organization, is called a "category I" complaint. Quality complaints that do not meet the category I criteria are called "category II" complaints. Standard Form (SF) 368, Quality Deficiency Report, or a message in the format of the Standard Form 368, is used to report quality deficiencies.

(c) Standard Form 368 (including SF's 368 submitted in message formats) are required for all product quality deficiencies that involve material (1) shipped to the user from a GSA distribution center (including shipments made directly to the user from GSA distribution centers as well as "indirect" shipments (shipments with intermediate stops between the GSA distribution center and the ultimate user)), (2) shipped to the user from a DOD depot or another Government activity, as directed by GSA, (3) purchased by GSA for the user and inspected by GSA, or (4) ordered from a GSA Federal Supply Schedule contract which specified source inspection by GSA.

(d) Category I complaints are to be reported to GSA by telephone or telegraphic message within 72 hours of discovery. Category II complaints are to be reported within 15 days after discovery.

(e) Standard Forms 368 (in triplicate) should be sent to the following address: GSA Discrepancy Reports Centers (6 FR–Q), 1500 East Bannister Road, Kansas City, MO 64131–3088. Communications routing indicator: RUEVFXE (unclassified), RULSSAA (classified), Com: (816) 926–7447, FTS: 926–7447, AUTOVON: 465–7447.

In addition, when reporting a category I product quality deficiency condition, an information copy should be sent to the following address: General Services Administration, FSS, Office of Quality and Contract Administration, Quality Assurance Division (FQA), Washington, DC 20406. Communications routing indicator: RUEVFWM (unclassified), RULSSAA (classified), COM: (703) 557–8515, FTS: 557–8515.

(f) For defective items covered by a manufacturer's commercial warranty, activities should initially attempt to resolve all complaints on these items themselves (examples of items with a commercial warranty are vehicles, major appliances such as gas and electric ranges, washing machines, dishwashers, and refrigerators). If the contractor replaces or corrects the deficiency, an SF 368, in triplicate, should be sent to the Discrepancy Reports Center at the above address. The resolution of the case should be clearly stated in the text of the SF 368.

(g) If, however, the contractor refuses to correct, or fails to replace, either a defective item or an aspect of service under the warranty, an SF 368, along with copies of all pertinent correspondence, should be forwarded to the GSA office executing the contract (address will be contained in the pertinent contract/purchase order). An information copy of the SF 368 should also be submitted to the Discrepancy Reports Center at the above address.

(h) For items ordered from a GSA Federal Supply Schedule contract when the inspection is performed by an activity other than GSA or when the items are purchased by GSA for the user but not inspected by GSA, activities should initially attempt to resolve all complaints on these items directly with the contractor. If the contractor refuses to correct, or fails to replace a defective item, an SF 368, along with copies of all correspondence, should be forwarded to the GSA office executing the contract (address will be contained in the pertinent contract/purchase order). An information copy of the SF 368 should also be submitted to the Discrepancy Reports Center at the above address.

(i) Information submitted to the Discrepancy Reports Center regarding defective items will be maintained as a quality history file for use in future procurements.

(j) Additional information regarding reporting of quality deficiences may be obtained by referring to chapter 4 of the GSA handbook referenced in § 101–26.803–1.

5. Section 101–26.803–3 is added to read as follows:

§ 101–26.803–3 Reporting of discrepancies in transportation, shipments, material, or billings.

(a) Transportation-type discrepancies shall be processed under the instructions in Subpart 101–40.7 when the discrepancies are the fault of the carrier and occur while the shipments are in the possession of:

(1) International ocean or air carriers regardless of who pays the transportation charges, except when shipment is on a through Government bill of lading (TGBL) or is made through the Defense Transportation System (DTS). Discrepancies in shipments on a TGBL or which occur while in the DTS shall be reported as prescribed in the GSA handbook referenced in § 101–26.803–1; or

(2) Carriers within the continental United States, when other than GSA or DOD pays the transportation charges.

(b) All other shipping, transportation, or billing discrepancies shall be reported on the forms and within the time frames and dollar limitations and according to the procedures prescribed in the GSA handbook referenced in § 101–26.803–1.

6. Section 101–26.803–4 is added to read as follows:

§ 101–26.803–4 Adjustments.

GSA and DOD will adjust billings resulting from over or under charges or discrepancies or deficiencies in shipments or material on a bill submitted under the provisions of this Subpart 101–26.8 and the GSA handbook referenced in § 101–26.803–1.

Dated: June 21, 1988.

John Alderson,

Acting Administrator of General Services.

[FR Doc. 88–15757 Filed 7–13–88; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 88–192]

Administrative Practice and Procedure

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission's *ex parte* rules (§ 1.1200 *et seq.*) have been revised to reflect minor changes and corrections. The *ex parte* rules specify standards of conduct and procedures to be followed with regard to *ex parte* presentations in Commission proceedings and provide for the imposition of sanctions for violations of these standards and procedures.

EFFECTIVE DATE: July 14, 1988.

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

FOR FURTHER INFORMATION CONTACT: David H. Solomon, Office of General Counsel, Federal Communications Commission (202) 632–6990.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 88–192, adopted June 8, 1988, and released June 24, 1988. The complete text of this decision may be purchased from the Commission's copy contractor,

International Transcription Service, (202) 857-3870, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Order

1. In this *Order*, the Commission makes minor corrections and changes to its *ex parte* rules. Specifically, it makes the following changes: (1) Incorporates in a Note to § 1.1202(a) an interpretation regarding the treatment of status inquiries that was issued by the General Counsel in an October 30, 1987 Public Notice (Mimeo No. 414); (2) makes the list of exempt proceedings in § 1.1204(a) more comprehensive by including references to additional proceedings that are exempt under §§ 1.1206(b) and 1.1208(c)(1); (3) adds a new Note to § 1.1204(a) clarifying that where a formal opposition (or request for hearing) would render a proceeding non-restricted, any *ex parte* presentations by informal objectors are subject to the "permit but disclose" rules that would otherwise be applicable if a formal opposition (or request for hearing) were filed; (4) without changing their treatment under the rules, clarifies that section 214(a) certificate proceedings are adjudications; and (5) corrects minor drafting errors made in previous orders.

2. Accordingly, *it is ordered* that the Rules and Regulations of the Federal Communications Commission *are amended* in the manner indicated below, *to become effective immediately* upon publication in the **Federal Register**.

H. Walker Feaster III,

Acting Secretary.

List of Subjects in 47 CFR Part 1

Commission practice and procedure.

Part 1 (Practice and Procedure) of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

1. The authority citation for Part 1 continues to read:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 1.1202 is amended by adding the following Note immediately following paragraph (a):

§ 1.1202 Definitions.

* * * * *

(a) * * *

Note.—Any congressional or other communication expressing concern with administrative delay in a particular proceeding or expressing concern that a particular proceeding be resolved expeditiously, will be treated as a status inquiry and therefore excluded from the definition of presentation, *provided that*: no view is expressed as to the merits or outcome of the proceeding; no view is expressed as to a date by which the proceeding should be resolved; and no specific reasons are given as to why the proceeding should be resolved expeditiously, other than the need to resolve administrative delay.

* * * * *

3. Section 1.1204(a) introductory text is amended by adding a comma and the phrase ", § 1.1206 (Non-Restricted Proceedings)," immediately following the phrase "(Sunshine Period Prohibition)".

4. Section 1.1204 is amended by adding the phrase "or other proceeding specified in § 1.1208(c)(1)(ii)" to paragraph (a)(1) immediately following the words "§ 1.1202(d)".

5. Section 1.1204 is further amended by removing the Note following paragraph (a)(3) and adding said Note immediately following paragraph (a)(2), by adding to said Note the word "or" immediately following the words "subsection 1.1204(a)(1)", by removing the comma following the words "subsection 1.1204(a)(1)", and by removing from said Note the words "or (a)(3),".

6. Section 1.1204 is further amended by adding the words "and where the requested information is not the subject of a request for confidentiality" to paragraph (a)(3), immediately following the word "opposed".

7. Section 1.1204 is further amended by adding new paragraphs (a)(7), (a)(8), (a)(9), (a)(10) and (a)(11), and a Note immediately thereafter, to read as follows:

§ 1.1204 General exemptions.

(a) * * *

(7) A proceeding conducted pursuant to section 220(b) of the Communications Act for prescription of common carrier depreciation rates prior to release of a public notice of specific proposed depreciation rates for a carrier or carriers.

(8) A petition or request for declaratory ruling unless a formal opposition has been filed.

(9) A rule making proceeding conducted pursuant to sections 201(a), 213(a), 221(c) or 222 of the Communications Act or sections 201(c)(2) or 201(c)(5) of the Communications Satellite Act of 1962, unless the proceeding has been formally opposed or has been set for investigation by the Commission.

(10) A proceeding under section 221(a) of the Communications Act unless a formal request for hearing has been made by an entity specified in that section.

(11) A proceeding under section 214(a) of the Communications Act unless a formal opposition has been filed or the proceeding has been designated for hearing.

Note.—In proceedings exempted by subsection 1.1204 (a)(3), (a)(8), (a)(9), (a)(10), or (a)(11), oral ex parte communications without disclosure pursuant to § 1.1206 are permissible, but only between the Commission and the formal party involved or his representative. Any informal objectors (whether their objections are oral or written) are subject to *ex parte* procedures set forth in § 1.1206 requiring disclosure of such communications except where confidentiality is necessary to protect these persons from possible reprisals.

[FR Doc. 88-14962 Filed 7-13-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-406; RM-5893]

Radio Broadcasting Services; Prattville, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 236C2 for Channel 237A at Prattville, Alabama, and modifies the Class A license of Downs Broadcasting, Inc. for Station WQIM (FM), as requested, to specify operation on the higher class channel, thereby providing that community with its first wide coverage area FM service. Reference coordinates for Channel 236C2 at Prattville are 32-27-49 and 86-24-12. With this action, the proceeding is terminated.

EFFECTIVE DATE: August 22, 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. 87-406, adopted June 7, 1988, and released July 8, 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 for Alabama, is amended by revising the entry for Prattville by removing Channel 237A and adding Channel 236C2.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88-15803 Filed 7-13-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-439; RM-5889]

Radio Broadcasting Services; Lake City, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 232C2 for Channel 232A at Lake City, Florida, and modifies the Class A license for Station WQPD(FM) to specify Channel 232C2, at the request of the licensee, Holder Media, Inc. The coordinates for Channel 232C2 at Lake City are 30-08-01 and 82-52-45. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 22, 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. 87-439, adopted May 31, 1988, and released July 8, 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 for Lake City, Florida by adding Channel 232C2 and removing Channel 232A.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88-15806 Filed 7-13-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-382; RM-5904]

Radio Broadcasting Services; Colonial Heights, Petersburg and Charlottesville, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 237B1 for Channel 237A at Colonial Heights, Virginia and modifies the license of Station WKHK(FM) to reflect the higher class co-channel, at the joint request of WPVA, Inc., licensee of Station WKHK(FM) and Charlottesville Broadcasting Corporation. In order to accomplish the substitution at Colonial Heights Charlottesville Broadcasting Corporation, licensee of Station WQMC(FM), Channel 237A, Charlottesville, Virginia, is required to substitute Channel 236A for Channel 237A. Colonial Heights could receive its first wide coverage area FM service. Channel 237B1 can be used at the current transmitter site of Station WKHK(FM) at coordinates 37-20-22 and 77-24-31. Channel 236A can be used at the current transmitter of Station WQMC(FM) at coordinates 38-02-54 and 78-28-12. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 19, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-382, adopted May 31, 1988, and released July 5, 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 Virginia by removing Channel 237A and adding Channel 237B1 at Colonial Heights; and by removing Channel 237A and adding Channel 236A at Charlottesville.

Steve Kaminer,

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

[FR Doc. 88-15810 Filed 7-13-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-357; RM-5854]

Radio Broadcasting Services; Rice Lake, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 249C2 for Channel 249A at Rice Lake, Wisconsin, and modifies the license of Station WAQE-FM to specify operation on the higher class frequency, at the request of Red Cedar Broadcasters, Inc, as that community's second wide coverage area FM service. A site restriction of 18.3 kilometers (11.4 miles) northeast of Rice Lake is required. The proposed site coordinates are 45-39-51 and 91-40-20. Canadian concurrence has been obtained. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 15, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6430.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-357, adopted April 4, 1988, and released June 30, 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 Wisconsin by removing Channel 249A and adding Channel 249C2 for Rice Lake.

Steve Kaminer,

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

[FR Doc. 88-15812 Filed 7-13-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 80482-8082]

Ocean Salmon Fisheries Off The Coasts of Washington, Oregon, and California

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

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA announces an adjustment to recreational ocean salmon management measures in the area from the Orford Reef Red Buoy, Oregon, to Horse Mountain, California. The adjustment modifies the daily bag limit in this area from two salmon of any species to one salmon of any species, and establishes the gear restriction that no person may use more than one rod and line while recreationally fishing between the Oregon-California border and Point Delgada (40°01'24" N. lat.). The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with representatives of the Pacific Fishery Management Council, the Oregon Department of Fish and Wildlife (ODFW), and the California Department of Fish and Game (CDFG), that the adjustment is necessary to avoid exceeding the chinook quota established in the preseason announcement of 1988 management measures. This action is intended to slow the catch of chinook salmon, extend the recreational season in this area, and ensure conservation of chinook salmon.

EFFECTIVE DATES: Modification of the recreational daily bag limit from the Orford Reef Red Buoy, Oregon, the Horse Mountain, California, and establishment of a gear restriction from the Oregon-California border to Point Delgada, California, is effective at 0001 hours local time, July 12, 1988. Comments on this notice will be received through July 26, 1988.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115-0070; or E. Charles Fullerton, Director, Southwest Region, NMFS, 300 S. Ferry Street, Terminal Island, CA 90731-7415. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140, or Rodney R. McInnis at 213-514-6199.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries are codified at 50 CFR Part 661. In the management measures for 1988 effective on May 1, 1988 (53 FR 16002, May 4, 1988), NOAA announced that the 1988 recreational fishery for all salmon species in the area from the Orford Reef Red Buoy, Oregon, to Horse Mountain, California, would begin on May 28 and continue through the earlier of September 11 or attainment of the preseason reservation (quota) of 55,000 chinook salmon. The recreational fishery in this area has a daily bag limit of two salmon of any species and the gear restriction that no person may use more than one rod and line while fishing off Oregon.

Based on the best available information, the recreational fishery catch in the area from the Orford Reef Red Buoy, Oregon, to Horse Mountain, California, is estimated to be about 22,700 chinook salmon through June 26, 1988. It is projected that the quota of 55,000 chinook salmon will be reached well in advance of the scheduled September 11 closing date unless inseason action is taken to slow the catch of chinook salmon and extend the recreational season in this area. Such action is provided for by the regulations at 50 CFR 661.21(b)(1)(iii)-(iv) which authorize changes in recreational bag limits and establishment or modification of gear restrictions.

Therefore, NOAA issues this notice to adjust the recreational salmon fishery in the exclusive economic zone (EEZ) from the Orford Reef Red Buoy, Oregon, to Horse Mountain, California, by modifiying the daily bag limit from two salmon of any species to one salmon of any species in this area, and establishing the gear restriction that no person may use more than one rod and line while recreationally fishing from the Oregon-Califirnia border to Point Delgada (40°01'24" N. lat.) effective 0001 hours local time, July 12, 1988. The restriction that no more than 6 fish may be retained in 7 consecutive days remains in effect in the EEZ.

The Regional Director consulted with representatives of the Pacific Fishery Management Council, ODFW, and CDFG regarding this inseason adjustment of the recreational fishery.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Dated: July 11, 1988.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-15907 Filed 7-11-88; 5:05 pm]

BILLING CODE 3510-22-M

50 CFR Part 675

[Docket No. 71147-8002]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA announces the apportionment of amounts of Alaska groundfish from domestic annual processing (DAP) to joint venture processing (JVP) under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The intent of this action is to assure optimum use of these groundfish by allowing continued retention of Pacific ocean perch (POP) and "other rockfish" by JVP fisheries in the Aleutians Islands subarea of the Bering Sea and Aleutian Islands.

DATES: Effective July 11, 1988. Comments will be accepted July 26, 1988.

ADDRESS: Comments should be mailed to James W. Brooks, Acting Director, Alaska Region, National Marine

Fisheries Service, P.O. Box 1668, Juneau, AK 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Fishery Management Biologist, NMFS), 907–586–7230.

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the U.S. exclusive economic zone under the Magnuson Fishery Conservation and Management Act. The FMP was developed by the North Pacific Fishery Management Council (Council) and is implemented by rules appearing at 50 CFR 611.93 and Part 675.

The total allowable catch (TAC) for various groundfish species is apportioned initially among domestic annual harvest (DAH), reserves and the total allowable level of foreign fishing (TALFF). The reserve amount, in turn, is to be apportioned to TALFF and/or DAH during the fishing year, under §§ 611.93(c) and 675.30(b) respectively. As soon as practicable after April 1, June 1, August 1 and on such other dates as are necessary, the Secretary of Commerce will apportion to DAH all or part of the reserve that he finds will be harvested by U.S. vessels during the remainder of the year, and apportion to JVP the part of DAP that he determines will not be harvested by U.S. vessels and delivered to U.S. processors during the remainder of the year, unless such apportionments would adversely affect the conservation of groundfish resources or prohibited species.

The initial specifications of DAP for 1988 were based on the projected needs of the U.S. processing industry as assessed by a mail survey sent by the Director, Alaska Region, NMFS (Regional Director), to fishermen and processors in October 1987. After 15 percent of the Bering Sea and Aleutian Islands (BSAI) total allowable catch (TAC) was placed in the non-specific reserve, as required at § 675.20(a)(3), the initial specifications for DAP were determined, and the remaining amounts were provided to JVP (53 FR 894, January 14, 1988). No initial specification was provided for TALFF because DAH requirements exceeded TAC.

On January 14, JVP in the Bering Sea and Aleutian Islands subareas was supplemented by a total of 804 mt of the non-specific reserve to provide necessary bycatch of Greenland turbot, Pacific ocean perch, rockfish, sablefish, and squid. On April 14 (53 FR 12772, April 19, 1988), JVP was supplemented by 24,000 mt of the non-specific reserve to provide additional amounts of yellowfin sole, "other flatfish" and Pacific cod in order to allow joint venture operations to continue without interruption. At its April meeting, the Council recommended that the Regional Director supplement the JVP for pollock in the Bering Sea by 100,000 mt. On May 5 (53 FR 16552, May 10, 1988), JVP was supplemented by 135,030 mt of the non-specific reserve to provide the recommended amount of pollock and necessary bycatch amounts of Greenland turbot, "other flatfish," Pacific cod, and "other species." On May 20 (53 FR 19303, May 25, 1988) JVP was supplemented by 95,000 mt of pollock and 1,000 mt of arrowtooth flounder from the non-specific reserve, and DAP was supplemented by 10,000 mt of "other flatfish" from the non-specific reserve. On June 17 (53 FR 23402, June 22, 1988), JVP was supplemented by 6,750 mt of pollock and 20 mt of Greenland turbot from the non-specific reserve.

Reapportionment (Table 1)

TABLE 1.—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF TAC

[All values are in metric tons]

		Current	This action	Revised
POP (Aleutian Is. subarea)	DAP	5,100	−1,000	4,100
TAC=6,000; ABC=16,600	JVP	441	+1,000	1,441
"Other Rockfish" (Al. Is. subarea)	DAP	935	−200	735
TAC=1,100; ABC=1,100	JVP	165	+200	365
Total (TAC=2,000,000)	DAP	802,520	−1,200	801,320
	JVP	1,170,084	+1,200	1,171,284
	Reserves	27,396		27,396

The following actions are taken by this notice to reapportion groundfish from DAP to JVP fisheries.

To the BSAI JVP: In the Aleutian Islands subarea, nine U.S. catcher boats delivering fish to six foreign processors are conducting directed fisheries on Atka mackeral and have intermittently experienced high bycatch amounts of POP and "other rockfish". At current catch rates, the current JVPs of Aleutian Islands subarea POP and "other rockfish" are in danger of being reached and exceeded in the near future. Should either JVP be reached, POP or "other rockfish" would be required to be discarded, resulting in wastage of high-value species and reduced income to U.S. fishermen who would otherwise be paid for retained and processed amounts.

The current DAP catch (173 mt) of Aleutian Islands subarea POP is only 3 percent of its 5,100 mt DAP quota; in 1987 the DAP catch was only 726 mt, or 11 percent of its 6,786 mt quota. The current DAP catch (16 mt) of Aleutian Islands subarea "other rockfish" is only 2 percent of its 935 mt quota; in 1987 the DAP catch (143 mt) was only 14 percent of its 1,001 mt quota. For these reasons, the Regional Director has determined that the current DAP amounts for Aleutian Islands subarea POP and "other rockfish" are excess to DAP needs in 1988. Therefore, 1,000 mt of the DAP amount for POP is transferred to JVP, and 200 mt of the DAP amount for "other rockfish" is transferred to JVP.

These apportionments do not result in overfishing of Aleutian Islands subarea POP or "other rockfish" stocks, as the resulting species TACs do not exceed their ABCs.

Classification

This action is taken under the authority of § 675.20(b) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to benefit

domestic fishermen who otherwise would have to discard substantial amounts of POP or "other rockfish" if nonretention was required as a result of achieving previously specified JVP amounts. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

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

Dated: July 8, 1988.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-15885 Filed 7-11-88; 4:25 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 53, No. 135
Thursday, July 14, 1988

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

Expenses and Assessment Rate for Dried Prunes Produced in California

AGENCY: Agricultural Market Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 993 for the 1988–89 fiscal year established under the marketing order for dried prunes produced in California. The marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable prunes handled from the beginning of such year. An annual budget of expenses is prepared by the Prune Marketing Committee (committee) and submitted to the U.S. Department of Agriculture for approval. The members of the committee are handlers and producers of regulated prunes. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate appropriate budgets. The assessment rate recommended by the committee is derived by dividing the anticipated expenses by expected shipments of assessable prunes. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. Funds to administer this program are derived from assessments on handlers.

DATE: Comments must be received by July 25, 1988.

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

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone (202) 447–5120.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 993 (7 CFR Part 993), regulating the handling of dried prunes produced in California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

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

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

There are approximately 16 handlers of prunes grown in California, and approximately 1,200 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of les than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of prune handlers and producers may be classified as small entities.

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

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

The committee met on June 28, 1988, and unanimously recommended 1988–89 marketing order expenditures of $248,320 and an assessment rate of $1.60 per salable ton of prunes. In comparison, 1987–88 marketing year budgeted expenditures were $250,648 and the assessment rate was $1.52 per ton under M.O. 993. Assessment income for 1988–89 is estimated at $248,320 based on a crop of 155,200 salable tons of prunes.

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

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

List of Subjects in 7 CFR Part 993

California, Dried prunes, Marketing agreements and orders.

For the reasons set forth in the preamble, it is proposed that a new § 993.339 be added as follows:

PART 993—[AMENDED]

1. The authority citation for 7 CFR Part 993 continues to read as follows:

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

2. Section 993.339 is added to read as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

§ 993.339 Expenses and assessment rate.

Expenses of $248,320 by the Prune Marketing Committee are authorized, and an assessment rate payable by each handler in accordance with § 993.81 is fixed at $1.60 per ton for salable dried prunes for the 1988–89 crop year ending July 31, 1989.

Dated: July 11, 1988.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 88–15909 Filed 7–13–88; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 80475–8075]

U.S. Trade in Services; Revisions in Requirements for Exemption From Reporting in the BE–29 Survey of Foreign Ocean Carriers' Expenses in the United States

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice sets forth proposed rules to change the exemption requirements for the annual BE–29 survey of foreign ocean carriers' expenses in the United States. The survey is mandatory and is conducted pursuant to the International Investment and Trade in Services Survey Act.

The proposed rules will amend 15 CFR Part 801, as amended. They implement changes in exemption criteria requested by U.S. agents that represent foreign ocean carriers in the United States.

DATE: Comments on the proposed rules will receive consideration if submitted in writing on or before August 29, 1988.

ADDRESS: Comments may be mailed to the Office of the Chief, Balance of Payments Division (BE–58), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand delivered to Room 407, Tower Building, 1401 K Street, NW., Washington, DC 20005 between 9 a.m. and 4 p.m. Comments received will be available for public inspection in Room 407, Tower Building between 9 a.m. and 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Anthony J. Di Lullo, Assistant Chief, Balance of Payments Division (BE–58), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; Phone (202) 523–0621.

SUPPLEMENTARY INFORMATION: The proposed rules will change the exemption criteria for reporting in the BE–29 survey of foreign ocean carriers' expenses in the United States. The changes were prompted by requests from four regional associations of steamship agents and ship owners and brokers. The associations said that agents were expanding excessive amounts of time in searching records to determine whether they were exempt from reporting.

The revision in the "Exemption" section is intended to reduce the amount of time expended by agents to determine eligibility for exemption from reporting by introducing alternative criteria. Some association members suggested that small agents (agents that were not major representatives of foreign ocean carriers) would probably handle less than forty port calls per year by foreign ocean carriers, and it is simpler to count the number of port calls by foreign ocean carriers that the agent handled than to tabulate the expenses of foreign carriers it handled to determine exemption eligibility. Thus, the revised criteria exempt an agent from reporting if the agent handled less than forty port calls by foreign ocean carriers in a given year. If an agent handled more than forty port calls by foreign ocean carriers, then the agent must report unless total expenses were less than $250,000. Also, agents are no longer required to conduct a manual search of records. The determination of whether an agent handled more than $250,000 in port call expenses of foreign ocean carriers may be based on the judgement of knowledgeable persons in the agent's firm who can identify such transactions without conducting a manual search of records. Previously, the sole criterion for exemption was that covered expenses must be less than $500,000.

Executive Order 12291

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

(1) An annual effect on the economy of $100.0 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 the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

Executive Order 12612

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

This proposed rule contains collection of information requirements subject to the Paperwork Reduction Act. The existing BE–29 survey has been approved by OMB for use through September 30, 1988 (OMB No. 0608–0012). The paperwork to revise this survey and to incorporate other changes requested by the associations has been submitted to OMB. Comments regarding the collection of information requirements may be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Bureau of Economic Analysis, Washington, DC 20503.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to preparation of an initial regulatory flexibility analysis are not applicable to this proposed rulemaking because it will not have a significant economic impact on a substantial number of small entities. The exemption levels were revised to ensure that small businesses are excluded from reporting.

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

List of Subjects in 15 CFR Part 801

Economic statistics, Foreign trade, Reporting and recordkeeping requirements, Services.

Dated: April 8, 1988.

Allan H. Young,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, 15 CFR Part 801 is amended as follows:

PART 801—[REVISED]

1. The authority citation for 15 CFR Part 801 continues to read as follows:

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

2. Section 801.9(b)(1)(ii) is revised to read as follows:

§ 801.9 Reports required.

(b) * * *

(1) * * *

(ii) *Exemption.* Any U.S. person otherwise required to report is exempted from reporting if the total number of port calls by foreign vessels handled in the reporting period is less than forty and total covered expenses are less than forty and total covered expenses are less than $250,000. For example, if an agent handled less than 40 port calls in a calendar year, the agent is exempted from reporting. If the agent handled more than 40 calls, the agent must report unless covered expenses for all foreign carriers handled by the agent were less than $250,000. The determination of whether a U.S. person is exempt may be based on the judgment of knowledgeable persons who can identify reportable transactions without conducting a detailed manual records search.

* * * * *

[FR Doc. 88–15822 Filed 7–13–88; 8:45 am]

BILLING CODE 3510-06-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

Customs Regulations Amendments Concerning the Reporting Requirements for Aircraft

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to implement a portion of recent legislative changes relative to the arrival of aircraft. These changes will enhance Customs enforcement of the controlled substances and currency reporting laws and assist in preventing the importation of merchandise contrary to law. Certain information regarding the passengers on an aircraft arriving in the U.S. from a foreign location will generally be required to be submitted to Customs prior to the arrival of the aircraft at the first port of entry. This will permit Customs to query the Treasury Enforcement Communications System (TECS) prior to the arrival of air passengers and to thereby more efficiently and effectively process those persons.

DATE: Comments must be received on or before September 12, 1988.

ADDRESS: Comments (preferably in triplicate) may be addressed to and inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2324, Washington, DC 20229. Comments relating to the information collection aspects of the proposed rule may be addressed to Customs, as noted above, and also to the Office of Information and Regulatory Affairs, Attention: Desk Officer for U.S. Customs Service, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: (Operational matters) Robert Heiss, Office of Passenger Enforcement and Facilitation (202)–566–5607 or (Legal matters) Claib Cook, Office of the Chief Counsel (202)–566–2482.

SUPPLEMENTARY INFORMATION:

Background

The Anti-Drug Abuse Act of 1986 (Pub. L. 99–570) (the Act), made various changes to the Tariff Act of 1930 relating to the arrival in the U.S. and the reporting to Customs of persons and transportation conveyances; penalties and search and seizure of persons and conveyances; forfeiture and disposition of articles and conveyances; the Customs Forfeiture Fund; aviation smuggling; preclearance; and investigation matters such as records production, undercover Customs operations, informer compensation, and the exchange of information with domestic and foreign Customs and law enforcement agencies. The reporting requirements are consolidated in section 433, Tariff Act of 1930, as amended (19 U.S.C. 1433), which provides, in pertinent part, that the pilot of any aircraft arriving in the United States or the Virgin Islands from any foreign airport or place shall comply with such advance notification, arrival reporting, and landing requirements as the Secretary may by regulation prescribe.

This document implements a portion of the arrival and reporting provisions of the Act as to aircraft arriving from a foreign location and carrying passengers. The aircraft pilot, or person authorized on his behalf, will be required to provide a list of passengers, along with their respective dates of birth and passport numbers, to Customs at the airport of first arrival prior to the arrival of the aircraft. Some of this information is already collected by airlines for their own revenue purposes or is otherwise available. Passenger names are presently listed by flight number in the airlines' computer based reservation systems. Also, airlines generally check the passports of passengers departing foreign locations for a U.S. destination in order to determine their likelihood of admission to the U.S. for immigration purposes. Therefore, date of birth information which appears in the passport and the passport number are available to the airlines in the normal course of business. This information can be readily placed in the reservation system flight information record and electronically transmitted to U.S. Customs at the port of first arrival, along with other currently required flight arrival information, so that it will be received prior to the arrival of the flight to which it relates.

The Customs Service recognizes that some flights arrive in the U.S. from locations for which a passport is not required. The airlines will not be required to submit passport numbers for persons arriving in the U.S. from such locations with the flight arrival information. Although the Customs Service recognizes that in such cases the airlines will not have a passport available from which to obtain the passengers' dates of birth, it is anticipated that the collection of this information can be accomplished at the time the ticket is purchased. We understand that a substantial amount of the travel to the U.S. from locations for which a passport is not required actually originates in the U.S. with tickets purchased at domestic locations. We, therefore, believe that date of birth information may be collected without significant difficulty at the time of original ticket sale and placed in the airline flight reservation system with other flight information for later retrieval. It is anticipated that the information being required will only be retrievable by airline flight number and date of arrival.

Flights carrying only persons who have been precleared at a location in a foreign country by U.S. Customs officers stationed there will not be required to submit a list of passengers.

The procedures established by this amendment will permit Customs to query the Treasury Enforcement Communication System (TECS) and to

thereby more efficiently and effectively process arriving air passengers.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, Room 2324, Customs Service Headquarters, 1301 Constitution Ave., NW., Washington, DC 20229.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)*, it is certified that the amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Paperwork Reduction Act

The collection of information requirements contained in § 122.42(e) are subject to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501), and have been submitted to the Office of Management and Budget (OMB) for review and comment pursuant to 44 U.S.C. 3504(h). Public comments relating to the information collection aspects of the proposal should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer for U.S. Customs Service, Office of Management and Budget, Washington, DC 20503. A copy of the comments to OMB should also be sent to Customs at the address set forth in the **ADDRESS** portion of this document.

Drafting Information

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

List of Subjects in 19 CFR Part 122

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

Proposed Amendments

It is proposed to amend Part 122, Customs Regulations (19 CFR Part 122, published in the **Federal Register** of March 22, 1988 (53 FR 9285)), as set forth below:

PART 122—AIR COMMERCE REGULATIONS

1. The general citation of authority for Part 122 would continue as presently stated.

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1433, 1436, 1459, 1590, 1594, 1624, 1644, 49 U.S.C. App. 1509.

2. It is proposed to amend § 122.42 by revising paragraph (c) and adding a new paragraph (e) to read as follows:

§ 122.42 Aircraft entry.

* * * * *

(c) *Delivery of forms.* When the aircraft arrives, the aircraft commander or agent, having already complied with paragraph (e) as to a listing of passenger names, shall deliver any required forms to the Customs officers at the place of entry at once.

* * * * *

(e) *Passenger information.* The aircraft commander or agent shall provide a listing of passengers, along with their respective dates of birth and passport numbers, to the district director in charge of the port of entry where the airport of first arrival is located. The listing of passengers shall be presented on a flight by flight basis and shall be provided at least one hour prior to the scheduled arrival of the flight at the first port of entry. Such a listing need not, however, be submitted for flights carrying only persons who have been examined in foreign countries in accord with § 148.22 of this chapter. Further, passport numbers need not be furnished for persons arriving from locations for which a passport is not required.

William von Raab,

Commissioner of Customs.

Approved: May 24, 1988.

Francis A. Keating II,

Assistant Secretary of the Treasury

[FR Doc. 88-15874 Filed 7-13-88; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 175

Receipt of Domestic Interested Party Petition Concerning Tariff Classification of Silicon Electrical Steel

AGENCY: Customs Service, Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: On January 4, 1988, a petition, pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), was filed with the U.S. Customs Service on behalf of Armco, Inc. and Allegheny-Ludlum Steel Corporation. The petition challenges the classification of certain silicon steel toroids (strips of electrical steel arranged in a donut shape), as unfinished parts of transformers in item 682.60, Tariff Schedules of the United States (TSUS). The articles in issue were the subject of a ruling letter of December 23, 1986 (file 077880).

The petitioners are domestic producers of grain-oriented silicon steel which is said to be the same as the silicon electrical steel. The petitioners request that the Customs Service reconsider its determination and hold that the cutting and stacking of electrical steel sheet or strip into toroids does not result in an identifiable, unfinished part of a transformer, and, therefore, that toroidal stacks should be classified as electrical steel in items 607.9205, 607.9210, 608.2500, or 608.3900, TSUS Annotated (TSUSA).

DATE: Comments must be received on or before September 12, 1988.

ADDRESS: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations and Disclosure Law Branch, Customs Service Headquarters, Room 2324, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: John Valentine, Commercial Rulings Division, U.S. Customs Service, (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

On December 23, 1986, the Custom Service ruled (file 0776880) that the processing of silicon steel coil into toroids was sufficient to identify each toroid as a distinct, unfinished core for a transformer, and, therefore, that toroids were classifiable as parts of transformers in item 682.60, Tariff Schedules of the United States (TSUS). The processing consisted of the following operations: Cutting to length, layering or rewinding the sheets in a

staggered manner to allow air gaps at specific points in each layer, and then riveting the end to maintain the shape.

The toroids were further processed as follows: forming into a rectangular shape, annealing to remove stress, disassembly and reassembly around a coil, addition of insulating material, and binding with a plastic belt. The finished products were cores for electrical transformers.

On January 4, 1988, a petition, pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), was filed with the U.S. Customs Service on behalf of Armco, Inc. and Allegheny-Ludlum Steel Corporation. The petition challenges the classification of certain silicon steel toroids (strips of electrical steel arranged in a donut shape), as unfinished parts of transformers in item 682.60, TSUS.

The petitioners are domestic producers of grain-oriented silicon steel which is said to be the same as the silicon electrical steel. The petitioners request that the Customs Service reconsider its determination and hold that the cutting and stacking of electrical steel sheet or strip into toroids does not result in an identifiable, unfinished part of a transformer, and, therefore, that toroidal stacks should be classified as electrical steel in items 607.9205, 607.9210, 608.2500, or 608.3900, TSUS Annotated (TSUSA).

The petitioners allege the following:

(1) The facts presented to Customs in the request for the December 23, 1986 ruling were inadequate to show that there is sufficient processing of the electrical steel after its exportation from its country of manufacture and prior to its importation into the U.S. to change the steel sheet and strip into a part of a transformer. In this regard, the petitioners note that the electrical steel sheet and strip have not been materially advanced in condition beyond that of a basic steel shape prior to importation. It notes that electrical steel wound into a toroidal shape must undergo substantial processing after importation and before the steel becomes a part of a transformer, whether finished or unfinished.

(2) The cutting and stacking process is minimal and does not affect the condition of the electrical steel as a mere material in part 2 of schedule 6, TSUS. The petitioners note that Headnote 1(iv) of Part 2, Schedule 6, TSUS, excludes "parts of articles" from coverage under Part 2, which encompasses metals in basic shapes and forms. The article in question must be classifiable simultaneously as a material and as an identifiable part for Part 2 to be operative. The petitioners conclude that the classification of a basic shape as a part can only be accomplished when the article can be classified as a discrete part in the first instance.

(3) The electrical steel remains classifiable as a material because substantial additional processing is necessary after the stacked toroids are formed. In this regard the petitioners note that the electrical steel, as imported, does not possess the shape, size and all of the necessary characteristics of an unfinished part; nor has it acquired the individuality necessary to identify it as a part in its unfinished state.

(4) The policy reasons for the voluntary restraint arrangements (VRAs) require that the toroids be classified as a material under a tariff provision subject to the VRAs. The petitioners note that electrical steel sheet and strip are covered in a product specific category by the VRA between the U.S. and Japan under which Japan has agreed to limit the quantity of certain steel products which may be exported from Japan for shipment to the U.S. The petitioner further notes that the VRA was negotiated pursuant to the President's Steel Import Relief Program of September 23, 1984, which it states was designed to "remedy pervasive unfair trade in steel through the restraint of steel imports" and to thereby "encourage American industries and to protect America labor."

If the petition is granted and electrical steel toroids classified as requested, they may be subject to a higher rate of duty than they would have been under the referenced Customs determination, which held that they were unfinished parts of transformers rather than steel products. In addition, the electrical steel sheet and strip which form the toroids could become subject to quantitative limits imposed pursuant to a VRA if the sheet or strip is the product of a country which is a party to a VRA with the U.S. If subject to a VRA, the importer would be required to produce a certificate by the country of production that the quantity being exported to the U.S. is within the established quantitative limits.

Comments

Pursuant to § 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments from interested parties on the classification issue.

The domestic interested party petition, as well as comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between the hours of 9:00 a.m. and 4:30 on normal business days, at the Regulations and Disclosure Law Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2324, Washington, DC 20229.

Authority

This notice is published in accordance with § 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Drafting Information

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

Michael H. Lane,

Acting Commissioner of Customs.

June 23, 1988.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 88-15875 Filed 7-13-88; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Iowa Permanent Regulatory Program; Public Comment Period and Opportunity for Public Hearing on Proposed Amendments

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing the receipt of a proposed amendment to the Iowa permanent regulatory program (hereinafter referred to as the Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to the repeal of an exemption from permitting requirements of surface coal mining operations of one half acre or less in size.

This notice sets forth the times and locations that the Iowa program and the proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment and procedures that will be followed

regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. August 15, 1988. If requested, a public hearing on the proposed amendment will be held on August 8, 1988. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m., on July 29, 1988.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. William J. Kovacic at the address listed below. Copies of the Iowa program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendment by contacting OSMRE's Kansas City Field Office.

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

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

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

FOR FURTHER INFORMATION CONTACT: Mr. William J. Kovacic, Director, Kansas City Field Office at the address or telephone number listed in "**ADDRESSED**".

SUPPLEMENTARY INFORMATION:

I. Background

On January 21, 1981, the Secretary of Interior approved the Iowa program. Information regarding the general background on the Iowa program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Iowa program can be found in the January 21, 1981, **Federal Register** (46 FR 5885). Subsequent actions taken with regard to the Iowa Program and program amendments can be found at 30 CFR 915.15.

II. Proposed Amendment

By letter dated June 9, 1988, Iowa submitted a proposed amendment to its permanent regulatory program under SMCRA (Administrative Record No. IA–305). Iowa submitted the proposed amendment in response to a June 15, 1987, letter that OSMRE sent to inform Iowa of the notice of suspension in the **Federal Register** (52 FR 21228) that repealed the two-acre exemption at 30 CFR 700.11. The State statute that Iowa proposes to amend is section 83.26, subsection 2, of the Iowa Code 1987. It is amended by striking the subsection on the one half acre exemption.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h)(10), OSMRE is now seeking comment on whether the amendment proposed by Iowa satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Iowa program.

Written Comments

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

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4:00 p.m. July 29, 1988. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

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

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

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

List of Subjects in 30 CFR Part 915

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

Date: June 30, 1988.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 88–15798 Filed 7–13–88; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3414–2]

Approval and Promulgation of Air Quality Implementation Plans; State of New Mexico, Removal of Federal Assistance Limitations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On August 31, 1987, the Albuquerque City Council adopted ordinances to govern the operation of a vehicle inspection and maintenance (I/M) program and to provide the necessary funding for the administration of the I/M program. Subsequently, Bernalillo County adopted similar ordinances. On May 13, 1988, the City conducted a public hearing and adopted the final I/M regulations. With this notice, EPA is proposing removal of only the limitations on federal funding assistance in New Mexico. These funding restrictions are applied to highway and air program grants pursuant to section 176(a) of the Clean Air Act (CAA). The construction moratorium under section 110(a)(2)(I) will remain in effect until a complete SIP revision for the Bernalillo County carbon monoxide (CO) problem is submitted by the State of New Mexico and approved by EPA. EPA is proposing to remove the federal funding restrictions because, by adopting legal authorities to implement and to provide adequate funding to administer the I/M program, the City of Alburquerque, Bernalillo County, and the State of New Mexico have initiated reasonable efforts to submit a legally enforceable I/M

program, which is an essential portion of the State Implementation Plan (SIP) for Bernalillo County for attainment of the National Ambient Air Quality Standard (NAAQS) for CO. EPA will not finalize this action unless the program design elements and regulations are submitted and appear approvable to EPA.

This notice solicits comments on EPA's proposal to remove the funding restrictions and EPA's finding that the State of New Mexico is making reasonable efforts to submit the required plan.

DATE: Written comments must be submitted by August 15, 1988.

ADDRESSES: Written comments should be sent to the address below:

Gerald Fontenot, Chief, Air Programs Branch (6T–A), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Copies of all materials relating to EPA's action may be inspected during normal business hours at the following locations:

Air Programs Branch (6T–A), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Air Quality Bureau, Environmental Improvement Division, 1190 Saint Francis Drive, Harold Runnels Building, Santa Fe, New Mexico 87504–0968.

Air Pollution Control Division, City of Albuquerque, 1 Civic Plaza, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Gerald Fontenot, Air Programs Branch (6T–A), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 655–7204.

SUPPLEMENTARY INFORMATION:

A. Background

Pursuant to section 172(a) of the CAA, the State of New Mexico submitted a Part D SIP in January 1979, which demonstrated that the CO standard could not be attained by December 31, 1982, in Bernalillo County. (A Part D SIP is a SIP submitted by the State in order to meet the requirements of Part D of Title I of the Clean Air Act, as amended in 1977.) Consequently, the State of New Mexico requested and received an exension to December 31, 1987, to attain the CO standard in this area. The State was required to submit a SIP revision in 1982 which would demonstrate attainment of the CO standard by December 31, 1987. The SIP was required to include an I/M program that met EPA's program specifications as outlined in the January 22, 1981 policy for extension area SIPs (47 FR 7182).

The State of New Mexico submitted the 1982 SIP for attainment of the CO NAAQS in Bernalillo County on June 28, 1982. On July 1, 1983 (48 FR 30365), EPA approved the 1982 SIP for attainment of the CO NAAQS in Bernalillo County, including the provisions for an I/M program in Bernalillo County.

On January 3, 1983, the I/M program in Bernalillo County began operation. However, on January 4, 1983, a suit was filed in a New Mexico State District Court to stop the I/M program on both statutory and constitutional grounds. The New Mexico Supreme Court issued a final ruling on the suit in March 1984 concluding that the City of Albuquerque and Bernalillo County did not have the authority to collect an inspection fee. Following the ruling that no I/M fee could be collected to fund the program, the Albuquerque City revoked Ordinance No. 49–1969, governing the operation of the I/M program, on March 26, 1984. The inspection facilities for the I/M program closed on March 28, 1984.

On September 4, 1984, EPA published a notice in the **Federal Register** (49 FR 34866) proposing to disapprove the I/M portion of the 1982 CO SIP for Bernalillo County and to impose both funding sanctions under section 176(a) of the CAA and a construction ban under section 110(a)(2)(I). Subsequently, in response to requests by the City of Albuquerque, State of New Mexico and other interested parties a public hearing on the proposed EPA action was held on December 4, 1984. A rulemaking which finalized the disapproval of the I/M plan, authorized a construction moratorium, and imposed funding restrictions on highway and air program grants was published by EPA on March 4, 1985 (50 FR 8616). The sanctions became effective on April 3, 1985. Challenges to EPA's rulemaking action were dismissed by the United States Court of Appeals for the Tenth Circuit in *New Mexico Environmental Improvement Division vs. Thomas*, 789 F.2d 825, on April 23, 1986.

The March 4, 1985, notice also outlined the conditions which must be met for EPA to remove the funding restrictions. Either of the following conditions must be met:

(a) The State submits evidence that it has taken concrete steps toward restarting its I/M program in an expeditious manner, including the submittal of adequate legal authority and the institution of an adequate funding mechanism, or

(b) The County is formally redesignated by EPA to attainment for CO.

On August 4, 1986, the Albuquerque City Council adopted an ordinance to govern the operation of the I/M program. Subsequently, Bernalillo County adopted a similar ordinance.

The ordinance which provided funding for the I/M program was based on a two cent gasoline tax to be imposed in Bernalillo County. The tax ordinance could not be imposed without a referendum vote of Bernalillo County citizens, scheduled for November 4, 1986. The referendum was defeated and the ordinances revoked.

Due to the failure of the funding referendum and lack of any further action to reestablish the I/M program, section 316(b) funding restrictions on EPA sewage treatment facility grants were proposed in the **Federal Register** on February 25, 1987, (52 FR 5556).

B. I/M Activities

On August 31, 1987, the City Council adopted ordinances to govern and fund a decentralized I/M program. The County Commission adopted similar ordinances on October 13, 1987. On May 13, 1988, the City/County Air Quality Control Board conducted a public hearing and adopted the final I/M regulations.

The ordinances and regulations provide for the inspection of vehicles for excess tailpipe emissions of CO and hydrocarbons (HC), the presence and proper connection of a catalytic converter, air pump or aspiration system, fuel inlet restrictor, oxygen sensor, and presence of lead in the tailpipe of vehicles requiring unleaded gasoline. The inspection is to be performed biennially on 1975 and newer model year, gasoline powered, four wheeled vehicles with a gross vehicle weight of 26,000 pounds or less. Diesel and off-road vehicles will be exempted. Although Bernalillo County currently attains the ozone NAAQS, HC standards will be set to help maintain the ozone standard.

The program enforcement will be registration based. The ordinance requires the Director of the I/M program to enter into a binding agreement with the New Mexico Motor Vehicle Division whereby motor vehicles registered to an owner who resides or has principal place of business within Bernalillo County will be eligible for re-registration only if the owner presents a valid certificate of inspection with registration application. On-street enforcement will be performed by Police in conjunction with enforcement of other traffic violations.

The program will not charge a fee for inspections. Each licensed inspection

facility can charge what the market will bear for the inspections performed. The charge must be prominently posted in each inspection station. The administration of the program will be funded from general revenue funds and inspection station license fees.

The I/M program seems generally viable. However, many critical details of the local program design such as enforcement, equipment requirements, quality assurance plan, and repair requirements are not yet finalized. Without such details, EPA cannot fully evaluate the acceptability of the general plan. EPA will not finalize this proposed action until the adopted regulations and the program design elements have been submitted and are preliminarily determined to be approvable by EPA.

C. EPA Findings

Based upon the City's and County's adoption of ordinances to implement and fund the necessary I/M program in the nonattainment area, the approval of regulations at public hearing, and the submission of draft emission analyzer specifications, EPA is proposing to find that New Mexico is now making reasonable efforts to submit a CO attainment plan for Bernalillo County that considers each of the elements in section 172 of the Act. Therefore, EPA is proposing to remove the funding assistance limitations imposed pursuant to section 176(a) of the Act, to be finalized only when other program development activities are complete and appear approvable. Specifically, this action is proposing to remove the funding restrictions affecting highway grants in Bernalillo County and air pollution control program grants for the State of New Mexico Health and Environment Department and the City of Albuquerque/Bernalillo County Air Quality Control Board that EPA imposed on March 4, 1985, (50 FR 8616). The construction moratorium under section 110(a)(2)(I) will remain in effect until a complete SIP revision for the Bernalillo County CO problem is submitted by the State of New Mexico and approved by EPA.

This notice is also proposing to withdraw EPA's action of February 25, 1987, (52 FR 5556), which proposed withholding of Federal construction grant funds for sewage treatment facilities under section 316(b) of the CAA.

D. Summary and Request for Comments

EPA is soliciting comments on its proposal to find that reasonable efforts are being made to develop and implement a vehicle inspection and maintenance program for Bernalillo County which will meet all EPA's requirements, and on its proposal to lift funding restrictions. EPA will consider all comments received within 30 days of the publication of this notice.

E. Miscellaneous

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

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

This notice of proposal is issued under the authority of sections 110, 172, 176(a) and 301 of the Clean Air Act, as amended, 42 U.S.C. 7410(d), 7502, 7506(a) and 7601.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Intergovernmental relations.

Date: June 1, 1988.

John S. Floeter,

Acting Regional Administrator (6A).

[FR Doc. 88-15835 Filed 7-13-88; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-1-FRL-3413-8]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Reasonably Available Control Technology for Tech Industries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision defines and imposes reasonably available control technology (RACT) on Tech Industries (Tech) located in Woonsocket, Rhode Island. This revision is necessary to limit volatile organic compound (VOC) emissions from this source. The intended effect of this action is to propose approval of a source-specific RACT determination made by the State in accordance with commitments specified in its Ozone Attainment Plan approved by EPA on July 6, 1983 (48 FR 31026).

This action is being taken in accordance with section 110 of the Clean Air Act.

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

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Management Division, EPA Region I, Room 2311, JFK Federal Building, Boston, MA 02203. Copies of the State submittal and EPA's Technical Support Document for this proposed action are available during normal business hours at the Environmental Protection Agency, Region I, JFK Federal Building, Room 2311, Boston, MA 02203; and the Division of Air and Hazardous Materials, Department of Environmental Management, 75 Davis Street, Cannon Building, Room 204, Providence, RI 02908.

FOR FURTHER INFORMATION CONTACT: Robert C. Judge, (617) 565-3248; FTS 835-3248.

SUPPLEMENTARY INFORMATION: On May 6, 1987 and October 15, 1987, the Rhode Island Department of Environmental Management (DEM) submitted an administrative consent agreement negotiated between that agency and Tech for approval and incorporation into the Rhode Island SIP. The consent agreement establishes and imposes RACT to control VOC emissions from Tech. RACT must be defined for Tech under Rhode Island SIP Regulation No. 15, subsection 15.5, "Miscellaneous Facilities Emitting 100 Tons/Year or More."

Rhode Island Regulation No. 15, subsection 15.5 requires the DEM to determine and impose RACT on otherwise unregulated stationary sources of VOC greater than or equal to 100 tons per year (TPY). EPA approved this subsection of Regulation No. 15 on July 6, 1983 (48 FR 31026) as part of Rhode Island's Ozone Attainment Plan. That approval stipulated that all RACT determinations made by the DEM under subsection 15.5 would be submitted to EPA as source-specific SIP revisions.

Tech manufactures and costs plastic caps and covers for the cosmetics industry. Tech is subject to subsection 15.5 because it is considered a greater than 100 TPY source of VOCs which is not subject to RACT under any other Rhode Island regulation. The DEM has determined that 3.5 pounds VOC/gallon of coating (minus water) is RACT for Tech. This emission limit is consistent with EPA-approved emission limits for plastic parts coaters in Missouri and Oregon. This consent agreement fulfills all of the requirements found in subsection 15.5, as approved by EPA. (For further discussion, see the Technical Support Document prepared on this revision.)

The version of the consent agreement originally submitted to EPA on May 6, 1987 contains language that could be interpreted to allow Tech to bubble to meet the 3.5 pounds VOC/gallon of

coating (minus water) RACT limit. This was not the intent of the DEM. At the time this consent agreement was negotiated, Tech was reformulating *each* of its coatings to meet 3.5 pounds VOC/gallon of coating (minus water). In the October 15, 1987 letter requesting parallel processing, the DEM stated that the language which could be interpreted to allow Tech to bubble will not be included in the final consent agreement submitted as a formal SIP revision request. If, in the future, Tech chooses to comply with this emission limit on a facility-wide daily basis, the source will have to secure a bubble from the DEM through the negotiation of a separate approval document. The DEM has the authority to issue generic bubbles under subsection 15.4. EPA granted this authority to the DEM on July 6, 1983 (48 FR 31026).

The October 15, 1987 letter from the DEM also includes a statement that provisions 7 and 8 of the consent agreement submitted for parallel processing will not be included in the formal SIP submittal. The deletion of provisions 7 and 8 is necessary in order for EPA to approve the final consent agreement. These provisions could extend Tech's compliance date fourteen months beyond the final compliance date as defined in subsection 15.5.2. That subsection allows a source eighteen months to be in compliance with RACT after it has been notified by the DEM that it is subject to subsection 15.5 as a 100 TPY or greater source of VOCs. Tech was so notified on January 24, 1986, making its final compliance date July 24, 1987. Therefore, prior to final rulemaking by EPA, the DEM must formally submit a SIP revision including a revised final consent agreement for Tech. That consent agreement cannot allow for bubbling or for a compliance date extension beyond July 24, 1987.

EPA is proposing to approve the DEM's request for a SIP revision for Tech, which was submitted on May 6, 1987 and October 15, 1987 for parallel processing. EPA is soliciting public comments on this action. These comments will be considered before taking final action. If no substantial changes are made to the consent agreement in areas other than those cited in this notice, EPA will publish a Final Rulemaking Notice on this revision. Final Rulemaking by EPA will occur only after the DEM formally submits a fully approvable SIP revision to EPA. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the above address.

Proposed Action

EPA is proposing to approve the consent agreement submitted by the DEM as a SIP revision request for Tech in Woonsocket, Rhode Island. The consent agreement requires Tech to meet a RACT emission limit of 3.5 pounds VOC/gallon of coating (minus water). Prior to final rulemaking on this SIP revision, the DEM must amend the consent agreement as described in this notice and formally submit the revised version for approval and incorporation into the SIP.

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.

The Administrator's decision to approve or disapprove the plan revisions will be based on whether, they meet the requirements of section 110(a)(1)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Date: January 20, 1988.

Michael R. Deland,

Regional Administrator, Region I.

Editorial note. This document was received at the Office of the **Federal Register** July 11, 1988.

[FR Doc. 88–15836 Filed 7–13–88; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 201–1, 201–30, and 201–32

Electronic Office Equipment Accessibility for Handicapped Employees

AGENCY: Information Resources Management Service, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule implements Pub. L. 99–506, the "Rehabilitation Act Amendments of 1986." That statute directed the Secretary of the Department of Education, through the Department's National Institute on Disability and Rehabilitation Research, and the Administrator of General Services in consultation with the electronics industry to develop and establish guidelines for electronic equipment accessibility designed to ensure that handicapped individuals may use electronic office equipment with or without special peripherals. Initial guidelines were developed in 1987 to implement this Act. Federal Information Resources Management Regulation (FIRMR) Bulletin ——, Electronic Office Equipment Accessibility for Handicapped Employees, implements these initial guidelines.

This proposed rule provides mandatory FIRMR coverage regarding office equipment accessibility. It requires that determinations of need and requirements analyses be conducted for all automatic data processing equipment requirements to specifically determine the electronic equipment accessibility requirements of handicapped employees. The proposed rule further provides that the designated senior official may exempt any FIRMR provision not specifically required by executive order or statute that is impeding or obstructing a procurement limited solely to providing technology for handicapped employees. The objective of this regulatory guideline is to enable handicapped users to access and use electronic office equipment.

DATE: Comments are due August 15, 1988.

ADDRESS: Requests for copies of this proposed rule should be addressed to GSA, Office of Information Resources Management Policy, Regulations Branch (KMPR), Project KMP–88–14, Room 3224, 18th and F Sts., NW., Washington, DC 20405. Comments should be submitted to the same address.

FOR FURTHER INFORMATION CONTACT: Margaret Truntich or Mary Anderson, Regulations Branch (KMPR), Office of Information Resources Management Policy, telephone (202) 566–0194 or FTS, 566–0194.

SUPPLEMENTARY INFORMATION: (1) The purpose of this amendment is to ensure that Federal handicapped employees are provided with the electronic equipment capability to access and use electronic office equipment.

(2) Changes made in 41 CFR Chapter 201 are explained in the following paragraphs.

(a) In Part 201–1, § 201–1.102 will be amended to add a provision to cite the statutory authority for electronic office equipment accessibility.

(b) In Part 201–30, a new § 201–30.007–2 will be added to provide that

determinations of need and requirements analyses shall be made to specifically identify the needs of handicapped employees. It will also establish policies of equal access for handicapped employees.

(c) In Part 201–32, § 201–32.202 will be revised to provide that procurements of ADPE shall include requirements that ensure electronic equipment accessibility for handicapped Federal employees. It will also provide that any FIRMR provision, other than a provision specifically required by executive order or statute, impeding or obstructing a procurement limited solely to providing technology for handicapped employees, may be exempted from the procurement by the designated senior official.

(3) The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. This rule is written to ensure maximum benefits to Federal agencies. This is a Governmentwide management regulation that will have little or no net cost effect on society. The proposed rule is therefore not likely to have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 41 CFR Parts 201–1, 201–30, and 201–32

Computer technology, Government procurement, Government property management, Telecommunications, Information resources activities, Government records management, Competition, Hearing and appeal procedures.

Dated: June 13, 1988.

Francis A. McDonough,

Deputy Commissioner for Federal Information Resources Management.

[FR Doc. 88–15756 Filed 7–13–88; 8:45 am]

BILLING CODE 6820–25–M

NATIONAL SCIENCE FOUNDATION

45 CFR Part 613

Administrative Regulations; Amendment of Privacy Act Regulations/Exemption of System of Records

AGENCY: National Science Foundation.

ACTION: Proposed rule.

SUMMARY: The National Science Foundation (NSF) proposes to amend 45 CFR 613.6(a) to apply exemption 5 U.S.C. 552a(k)(5) of the Privacy Act to investigatory material involving applicants for Federal contracts (including grants and cooperative agreements). In addition, the NSF proposes to exempt a new Privacy Act system of records from subsection (d) of the Privacy Act, 5 U.S.C. 552a. This system is NSF–50, "Principal Investigator/Proposal File and Associated Records." It includes the investigatory records maintained by NSF when proposals are submitted to the agency and subsequent evaluations of the applicants and their proposals are obtained. The exemption is needed to protect the identity of persons supplying evaluations of NSF applicants and their proposals.

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

ADDRESS: Interested persons may submit written comments to Lawrence Rudolph, Assistant General Counsel, Office of General Counsel, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Lawrence Rudolph, (202) 357–9435.

SUPPLEMENTARY INFORMATION: Section 613.6(a) of NSF's Privacy Act regulations, 45 CFR Part 613, presently exempts from disclosure any material which would identify persons supplying references for various types of NSF fellowships. This exemption, effective September 27, 1975, was necessary to maintain the confidentiality of fellowship references so that evaluations continue to be given with complete candor. For identical reasons NSF now proposes to apply the same exemption, 5 U.S.C. 552a(k)(5), to any material which would identify persons supplying evaluations of NSF applicants for Federal contracts (including grants and cooperative agreements) and their proposals.

The new system of records subject to this exemption is NSF–50, "Principal Investigator/Proposal File and Associated Records." It contains the name of the principal investigator, the proposal and its identifying number, supporting data from the academic institution or other applicant, proposal evaluations from peer reviewers, a review record, financial data, and other related material. The provision of the Privacy Act from which the system is to be exempted is 5 U.S.C. 552a(d). Notice of this new system is published in the Notice Section of today's **Federal Register**.

The addition of this system of records to those already exempted from certain sections of the Privacy Act, and minor revisions to the exemption language itself to encompass applicants for Federal contracts (including grants and cooperative agreements), are the only changes being made to 45 CFR 613.6(a). These changes have been italicized for public convenience and ease of reference.

Under the criteria set forth in Executive Order No. 12291, this rule has been determined not to be a "major rule" requiring a regulatory impact analysis. In addition, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have a "significant economic impact on a substantial number of small entities."

List of Subjects in 45 CFR Part 613

Privacy.

Pursuant to the authority granted by 5 U.S.C. 552a(f), it is proposed to amend 45 CFR Part 613 by revising § 613.6(a) as set forth below.

Dated: July 6, 1988.

Charles H. Herz,

General Counsel.

PART 613—[AMENDED]

1. The authority for Part 613 continues to read as follows:

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

2. It is proposed to amend 45 CFR Part 613 by revising § 613.6(a) as follows:

§ 613.6 Exemptions.

(a) *Fellowships and other support.* Pursuant to 5 U.S.C. 552a(k)(5), the Foundation hereby exempts from the application of 5 U.S.C. 552a(d) any materials which would disclose the identity of references of fellowship applicants *or reviewers of applicants for Federal contracts (including grants and cooperative agreements)* contained in any of the following systems of records: (1) Fellowship and Traineeship Filing System, (2) Applicants to Committee on the Challenges of Modern Society Fellowship Program (NATO), and (3) *Principal Investigator/Proposal File and Associated Records.*

* * * * *

[FR Doc. 88–15740 Filed 7–13–88; 8:45 am]

BILLING CODE 7555–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Gen. Docket No. 84-467]

Expanded AM Band; Extension of Comment/Reply Period

AGENCY: Federal Communications Commission.

ACTION: Extension of comment/reply comment period.

SUMMARY: this action grants, in part, a motion for extension of time for filing comments and reply comments in response to the *Fourth Notice of Inquiry* in General Docket No. 84-467 (Planning of Broadcasting in the 1605-1705 kHz Band) 53 FR 23426, June 22, 1988. The Association For Broadcast Engineering Standards, Inc. (ABES) requested that the deadline for filing comments and reply comments, currently July 11 and July 26, 1988, respectively, be extended to August 25 and September 20, 1988, respectively, to respond to the numerous technical and allocations issues raised in the *Notice*. The Commission granted a 30 day extension which it believes will provide adequate time to develop a complete record while at the same time permitting this inquiry proceeding to be concluded expeditiously.

DATES: Comments are now due by August 11, 1988, and reply comments by August 26, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Mass Media Bureau (202) 254-3394.

SUPPLEMENTARY INFORMATION: The full text of this commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857-3800, 2100 M Street, NW., Suite 140 Washington, DC 20037.

Federal Communications Commission

Alex D. Felker,

Chief, Mass Media Bureau.

[FR Doc. 88-15813 Filed 7-13-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-319, RM-6247]

Radio Broadcasting Services; Opelika, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Ronald H. Livengood, seeking the allotment of Channel 244A to Opelika, Alabama, as that community's first local FM service. Reference coordinates utilized for Channel 244A at Opelika are 32-38-11 and 85-20-44.

DATES: Comments must be filed on or before August 29, 1988, and reply comments on or before September 13, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Ronald H. Livengood, P.O. Box 966, Scottsboro, AL 35678.

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. 88-319, adopted June 7, 1988, and released July 8, 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. 88-15800 Filed 7-13-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-318, RM-6387]

Radio Broadcasting Services; York, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Grantell Broadasting Company, licensee of Station WSLY(FM), Channel 257A, York, Alabama, seeking the substitution of Channel 258C2 for Channel 257A and modification of its license accordingly. The proposal is feasible if Station WHOD(FM), Channel 285A, Jackson, Alabama is modified to another Class A channel, as proposed in MM Docket No. 87-216. Reference coordinates for Channel 285C2 at York are 32-24-04 and 88-06-41.

DATES: Comments must be filed on or before August 29, 1988, and reply comments on or before September 13, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: William B. Grant, Grantell Broadcasting Company, Route 1, Box 400B, York, AL 36925.

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 88-318, adopted June 7, 1988, and released July 8, 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. 88-15802 Filed 7-13-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-317, RM-6328]

Radio Broadcasting Services; Lenwood, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Gary Albarez, seeking the allotment of Channel 297A to Lenwood, California, as that community's second local FM service. Reference coordinates utilized for this proposal are 34-52-30 and 117-06-48.

DATES: Comments must be filed on or before August 29, 1988, and reply comments on or before September 13, 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: Daniel F. Van Horn, Esq., Arent, Fox, Kintner, Plotkin & Kahn, 1050 Connecticut Ave., NW., Washington, Dc 20036-5339.

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. 88-317, adopted June 7, 1988, and released July 8, 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 reviews, all *ex parte* contracts 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. 88-15804 Filed 7-13-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-314, RM-6266]

Radio Broadcasting Services; Kahalu'u, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Timothy D. Martz, which proposes to allot Channel 291A to Kahalu'u, Hawaii, as its first FM service. Coordinates for the proposal are 19-35-00 and 155-58-09.

DATES: Comments must be filed on or before August 26, 1988, and reply comments on or before September 12, 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: Timothy D. Martz, 187 Brookmere Drive, Fairfield, Connecticut 06430, (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-314, adopted June 1, 1988, and released July 5, 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 rule 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. 88-15811 Filed 7-13-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-316, RM-6269]

Radio Broadcasting Services; Lanai City, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Timothy D. Martz, which proposes to allot Channel 284A to Lanai City, Hawaii, as its first local FM service at coordinates 20-49-06 and 156-54-22.

DATES: Comments must be filed on or before August 29, 1988, and reply comments on or before September 13, 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: Timothy D. Martz, 187 Brookmere Drive, Fairfield, Connecticut 06430, (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of

Proposed Rule Making, MM Docket No. 88–316, adopted June 1, 1988, and released July 8, 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 ar prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208. 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. 88–15805 Filed 7–13–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–315, RM–6308]

Radio Broadcasting Services; Hawesville, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Harold Wayne Newton, proposing to allot Channel 234A to Hawesville, Kentucky, as its second local FM service, at coordinates 37–54–12 and 86–45–12.

DATES: Comments must be filed on or before August 26, 1988, and reply comments on or before September 12, 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: Harold Wayne Newton, P.O. Box 355, Hawesville, Kentucky 42348, (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–315, adopted June 1, 1988, and released July 5, 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), 19191 M Street, NW., Washimngton, DC. The complete text of this decision maly 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 1.1208. 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. 88–15807 Filed 7–13–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–320, RM–6314]

Radio Broadcasting Services; Russellville, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Target Communications of Kentucky, Inc., licensee of Station WBVR(FM), Russellville, Kentucky, which seeks to downgrade the facilities for Station WBVR(FM) by substituting Channel 266C1 for Channel 266C at Russellville and modifying its Class C license accordingly. Coordinates for Channel 266C1 at Russellville are 36–50–40 and 86–55–11.

DATES: Comments must be filed on or before August 29, 1988, and reply comments on or before September 13, 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: Richard J. Bodorff, Fisher, Wayland, Cooper and Leader, 1255 Twenty-third Avenue, NW., Suite 800, Washington, DC 20037–1125 (Attorney for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–320, adopted May 31, 1988, and released July 8, 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. 88–15801 Filed 7–13–88; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88-311, RM-6230]

Radio Broadcasting Services; Richton, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Richton Broadcasting Company, proposing the allotment of FM Channel 243A to Richton, Mississippi, as that community's first FM broadcast service. The coordinates used for this proposal are 31–16–12 and 88–56–18.

DATES: Comments must be filed on or before August 26, 1988, and reply comments on or before September 12, 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: c/o Miller & Fields, P.C., P.O. Box 33003, Washington, DC 20033.

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. 88–311, adopted May 25, 1988, and released July 5, 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 1.1208. 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. 88–15809 Filed 7–13–88; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88–313, RM–6375]

Radio Broadcasting Services; Eagle River, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Nicolet Broadcasting Inc., licensee of Station WRJO(FM), Channel 232A, Eagle River, Wisconsin, proposing the substitution of Channel 233C2 for Channel 232A and modification of its license to specify operation on Channel 233C2. The proposal could provide the community with its first wide coverage area FM service. A site restriction of 18.9 kilometers (11.7 miles) north of the community is required. The coordinates are 46–05–00 and 89–11–47.

DATES: Comments must be filed on or before August 26, 1988, and reply comments on or before September 12, 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:, c/o Mark E. Fields, Esquire, Miller & Fields, P.C., P.O. Box 33003, Washington, DC 20033 (Counsel for petitioner) and Nicolet Broadcasting, Inc., Box 309, Eagle River, WI 54521 (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. 88–313, adopted May 25, 1988, and released July 5, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communication Commission.

Steve Kaminer,

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

[FR Doc. 88–15808 Filed 7–13–88; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192, 193, and 195

[Docket PS–102, Notice 2]

Control of Drug Use in Natural Gas, Liquefied Natural Gas and Hazardous Liquid Pipeline Operations

AGENCY: Office of Pipeline Safety (OPS), RSPA, DOT.

ACTION: Notice of public hearing.

SUMMARY: This Notice announces the time and place of a public hearing on proposed rules concerning the use of prohibited drugs by persons engaged in sensitive safety and security-related functions involving pipeline facilities.

DATES: The hearing will be held from 9:00 a.m. to 5:00 p.m. Auust 17, 1988. Persons should give notice of their intent to make oral statements by August 12, 1988.

ADDRESS: The hearing will be held at the Dallas/Fort Worth Airport Marriott Hotel, in Irving, Texas (214) 929–8800.

FOR FURTHER INFORMATION CONTACT: Requests to make a statement should be directed to Linda Craver, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366–1640. Questions concerning the subject matter of the notice should be directed to Cesar De Leon using the same address and telephone number.

SUPPLEMENTARY INFORMATION: RSPA recently published a notice of proposed rulemking regarding the use of prohibited drugs by persons who perform sensitive safety and security-related functions involving gas, liquefied natural gas, or hazardous liquid pipeline facilities that are subject to the safety standards in 49 CFR Part 192, Part 193, or Part 195 (53 FR 25892, July 8, 1988). The proposed rules would apply to operators of these pipeline facilities (other than operators of master meter systems).

Under the proposed rules, each operator would have to establish and conduct a written drug testing plan covering its own employees and those of contractors. Testing would be conducted prior to employment, after an accident, randomly, and based on reasonble cause. Operators also would be required to have an Employee Assistance Program to provide education and training about drugs.

RSPA will hold a public hearing chaired by the Administrator of RSPA, and Co-chaired by the Director of OPS on the proposed rules at the time and place stated above under "**DATE**" and "**ADDRESS.**" The hearing will be open to the public subject to the space available. The hearing will be informal, not a judicial or evidentiary type of hearing. Participants will not be permitted to cross examine persons presenting oral statements, although the hearing officer or RSPA staff may ask clarifying questions.

Interested persons will have an opportunity to present initial oral statements in the order in which requests to do so are received. The time allowed for statements will be at the discretion of the hearing officer, and a speakers roster will be available at the hearing room. After initial oral statements have been presented, those who wish to make rebuttal statements may, if time permits, be given an opportunity to do so in the same order in which the initial statements were made. The hearing will be recorded by a court reporter. A transcript of the hearing will be included in the docket as part of the record of this rulemaking proceeding. Persons who wish to purchase a copy of the transcript should contact the court reporter directly. Further procedures for conducting the hearing will be announced by the hearing officer at the beginning of the hearing.

Persons who wish to make oral statements at the hearing should notify the person whose name appears above under "**FOR FURTHER INFORMATION CONTACT**" not later than August 12, 1988. Later requests will be accepted only if the statements can be made during the allotted hearing time. Please give your name and the organization you represent, if any. Indicate the amount of time that is requested for your initial oral statement. Requests for more than 15 minutes of initial speaking time must be justified. Requests for special display equipment will not be granted.

Persons who wish to submit written statements in addition to their oral presentation may do so at the hearing. At least twenty-five copies should be available for distribution. Persons who wish to submit written statements without participating in the hearing may do so by sending them in duplicate to the Dockets Unit, Room 8417, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Such submissions must be received before the close of the period for public comment on the proposed ruels, September 6, 1988.

(49 App. U.S.C. 1672, 1804, and 2002; 49 CFR 1.53)

Issued in Washington, DC, on July 11, 1988.

Richard L. Beam,

Director, Office of Pipeline Safety.

[FR Doc. 88-15843 Filed 7-13-88; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Six-Month Extension of the Proposed Rule for Boerhavia Mathisiana (Mathis Spiderling)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of extension of proposed rule and comment period.

SUMMARY: The U.S. Fish and Wildlife Service extends the 1-year period on the proposed rule (52 FR 26033; July 10, 1987) for *Boerhavia mathisiana* (Mathis spiderling) for 6 additional months as provided for under section 4(b)(6)(B)(i) of the Endangered Species Act of 1973, as amended. Since publishing the proposed rule in the **Federal Register**, additional specimens annotated as *Boerhavia mathisiana* have been found at the herbarium of the University of Taxas at Austin. These specimens provide eight new localities for Boerhavia mathisiana and extend the species' range approximately 500 kilometers (310 miles) south into southern Tamaulipas, Mexico. The extension period will allow time to assess the status of the Mexican populations and to search for additional populations in southern Texas and northeastern Mexico. Comments are solicited.

DATES: With this 6-month extension, the new deadline for the final rule will be January 10, 1989. A new comment period will commence with the publication of this notice and will close August 15, 1988.

ADDRESSES: The complete file for this notice is available for inspection, by appointment, during normal business hours at the Endangered Species Office, U.S. Fish and Wildlife Service, 500 Gold Avenue SW., Room 4000, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Charles McDonald, Endangered Species Botanist, Region 2, Office of Endangered Species, 500 Gold Avenue, SW., Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972).

SUPPLEMENTARY INFORMATION

Background

Boerhavia mathisiana (Mathis spiderling) is a small perennial herb in the four o'clock family. The species was proposed for listing as endangered on July 10, 1987, (52 FR 26033). At that time the species was known from caliche outcrops at only two localities, these in San Patricio and Live Oak Counties, Texas.

In a comment on the proposal, Ms. Jackie M. Poole of the Texas Natural Heritage Program indicated that specimens of *Boerhavia mathisiana* from Tamaulipas, Mexico, are present in the herbarium of the University of Texas at Austin. The specimens, collected between 1947 and 1962 were mostly identified originally only as *Boerhavia*. Six specimens were annotated as *Boerhavia mathisiana* in January 1986, by Dr. Richard Spellenberg of New Mexico State University during his study of the Nyctaginaceas (four o'clock family) for the Chihuahuan Desert flora. Two additional specimens were annotated as *Boerhavia mathisiana* by Poole during her inspection of the other material. The specimens were all collected within a 125 kilometer (78 miles) radius of Ciudad Victoria in southern Tamaulipas. These localities are approximately 500 kilometers (310 miles) disjunct from the two localities in Texas. In addition, the specimen labels indicate the Mexican plants occurred on substrates other than caliche.

In light of this information, more time is needed to locate and assess the status

of *Boerhavia mathisiana* in southern Tamaulipas. Additional searches are also needed to determine if other populations occur in previously unsearched habitat in southern Texas and northeastern Mexico. Therefore, the Service under section 4(b)(6)(B)(i) extends for 6 months the 1-year deadline on *Boerhavia mathisiana*. Future actions on the proposed listing of this species depend on the results of the additional studies. After a thorough analysis of the data, the service will decide either to continue with the final listing of the species or to withdraw the proposal for *Boerhavia mathisiana* as provided under section 4(b)(6)(B)(ii) of the Endangered Species Act of 1973, as amended.

Author

The primary author of this notice is Charles B. McDonald, Endangered Species Botanist, Region 2, Office of Endangered Species, 500 Gold Avenue, SW., Albuquerque, New Mexico 87103 (505/766–3972 or FTS 474–3972).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

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

Dated: July 6, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88–15845 Filed 7–13–88; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

Northest Multispecies Fishery

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

ACTION: Notice of public hearings and request for comments.

SUMMARY: The new England Fishery Management Council (Council) will hold a series of public hearings and provide a comment period to solicit public imput regarding proposed measures to be included in Amendment 2 to the Northeast Multispecies Fishery Management Plan (FMP). Individuals and organizations may comment in writing to the Council if they are unable to attend the hearings.

DATES: The public comment period will close July 29, 1988. See **"SUPPLEMENTARY INFORMATION"** for dates, times, and locations of the hearings.

ADDRESS: Written comments should be sent to Chairman, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, 671–231–0422.

SUPPLEMENTARY INFORMATION: The Council seeks imput from the public on the following proposals scheduled for possible inclusion in Amendment 2 to the FMP. (1) Increases in the minimum sizes of four regulated species; Atlantic cod, from 19 to 21 inches; yellowtail flounder, from 12 to 13 inches; winter flounder, from 11 to 12 inches; and American plaice, from 12 to 14 inches. (2) The establishment of a 9-inch minimum size for redfish. (3) The application of uniform minimum fish sizes to both commercial and recreational fishermen, where minimum sizes of some regulated species currently do not apply to the recreational sector. (4) Indefinite postponement of the schedule increase in mesh size from 5½ to 6 inches in the Georges Bank portion of the regulated mesh area. Nets on all vessels operating anywhere in the regulated mesh area must contain at least 5½ inch mesh throughout the net by October 1, 1989. (5) All vesssels operating in the regulated mesh area may have no mesh on board smaller than 5½ inches. (6) An annual extension of the 5½ inch mesh requirement to the Nantucket Shoals area (December 31 through March 31) in order to protect juvenile cod in the winter fishery in that area. (7) Denial of exempted fisheries permits by the Director, northeast Region, to participants in the Exempted Fisheries Program who have not complied with reporting requirements. (8) Establishment of a trip bycatch limit of 25 percent regulated species weight for vessels operating in the Exempted Fisheries Program. (9) A prohibition on trawl vessels entering into or transiting haddock spawning Area II during the period of seasonal closure.

For information gathering purposes, the Council is also seeking comments on several other measures that will not be included in Amendment 2. (a) A prohibition on landing regulated species that have been filleted as sea. (b) Additional flexibility in timing the winter/spring Exempted Fisheries for whiting and shrimp. (c) The implementation of a flexible area action system to allow the Director, Northeast Region, with the agreement of the Council, to quickly close areas containing concentrations of juveniles of the regulated species on an emergency basis. A summary document will be made available in advance and also distributed at the hearings.

The dates, times, and locations of the public hearings are as follows:

July 18, 1988

7:30 p.m., Holday Inn Route 25, Riverhed, Long Island, New York.

7:00 p.m., Rockland District High School, 400 Broadway, Rockland, Maine.

July 19, 1988

7:00 p.m., Massachusetts Maritime Academy, Academy Drive, Bussards Bay, Massachusetts.

7:00 p.m., Holiday Inn By The Bay, 88 Spring Street, Portland, Maine.

July 20, 1988

7:00 p.m., Dutch Inn, Great Island Road, Galilee, Rhode Island.

7:00 p.m., Fuller School, Blackburn Circle, Gloucester, Massachusetts.

Dated: July 8, 1988.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–15849 Filed 7–13–88; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 662

[Docket No. 80737–8137]

Northern Anchovy Fishery

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

ACTION: Notice of preliminary determination.

SUMMARY: NOAA announces the estimated spawning biomass and preliminary determination of harvest quotas for the northern anchovy fishery in the exclusive economic zone (EEZ) for the 1988–1989 fishing season. The harvest quotas have been determined by application of the formulas in the Northern Anchovy Fishery Management Plan (FMP) and its implementing regulations. Those regulations require this announcement to be made on or about July 1 each year. This action provides data and requests comments for NOAA's determination of the final

specifications for the 1988–1989 fishing year.

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

ADDRESS: Comments should be addressed to E.C. Fullerton, Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, CA 90731.

In consultation with the California Department of Fish and Game and the NMFS Southwest Fisheries Center, the Director of the Southwest Region has made a preliminary determination that the spawning biomass of the central subpopulation of northern anchovy (*Engraulis mordax*) is estimated to be 950,000 metric tons (mt). The biomass estimate is derived from, and is equivalent to, the Egg Production Method measurement, but is based on the Stock Synthesis Model. The Regional Director has made the following preliminary determinations for the 1988–1989 fishing season, applying the formulas in the FMP and in § 662.20 of the implementing rules to calculate the harvest quotas and expected processing levels:

1. The total U.S. harvest quota or optimum yield (OY) of northern anchovy is 144,900 mt plus an unspecified amount for use as live bait.

2. The total U.S. harvest quota for reduction purposes is 140,000 mt.

a. Of the total reduction harvest quota, 9,072 mt is reserved for the reduction fishery in subarea A (north of Pt. Buchon).

b. The reduction quota for subarea B (south of Pt. Buchon) is 130,928 mt.

3. The U.S. harvest allocation for non-reduction fishing (i.e., fishing for anchovy for use as dead bait and direct human consumption) is 4,900 mt. However, non-reduction fishing is not limited until the total catch in both the reduction and non-reduction fisheries reaches the total harvest quota of 144,900 mt.

4. There is no U.S. harvest limit for the live bait fishery.

5. The domestic annual processing (DAP) capacity for the reduction and non-reduction industry is 1,621 mt.

6. The amount allocated to joint venture processing (JVP) is zero because there is no history of, nor are there applications for, joint ventures.

7. The domestic annual harvest (DAH) capacity, the sum of DAP and JVP, is 1,621 mt.

8. The total allowable level of foreign fishing (TALFF) is 80,903 mt. The FMP states that the TALFF in the U.S. EEZ will be based on the U.S. portion of the OY minus the DAH and minus that amount of expected harvest in the Mexican fishery zone which is in excess of that allocated by the FMP. The excess Mexican harvest in 1988–1989 is expected to be 62,376 mt. Applying the formula in the FMP results in the following: [TALFF = (144,900 mt − 1,621 mt) − (62,376 mt)].

A summary of the information on which this preliminary determination is based has been provided to the Pacific Fishery Management Council. Consultations with the Council will continue through July. In addition, the Regional Director will consider, until July 31, any evidence received from domestic land-based processors that the preliminary DAP should be modified. A final determination will be announced on or about August 1, 1988.

Classification

This action is authorized by 50 CFR Part 662 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 662

Fisheries.

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

Dated: July 11, 1988.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 88–15906 Filed 7–11–88; 5:07 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 53, No. 135
Thursday, July 14, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Regulation Public Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Regulation of the Administrative Conference of the United States. The committee will meet to discuss the draft recommendation dealing with "Federal Agency Valuations of Human Life."

DATE: Tuesday, July 19 at 2:00 p.m.

Location: Steptoe and Johnson, 4th Floor Conference Room, 1330 Connecticut Avenue, NW., Washington, DC.

Public Participation: Attendance at the committee meeting is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The committee chairman may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with a committee before, during, or after a meeting. Minutes of the meeting will be available upon request.

FOR FURTHER INFORMATION CONTACT: Sara Gordon, Staff Attorney, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

Jeffrey S. Lubbers,
Research Director.
July 8, 1988.

[FR Doc. 88–15755 Filed 7–13–88; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Proposed Determinations With Regard to the 1989 Upland Cotton Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1989 crop of upland cotton: (a) Whether Plan A or Plan B should be implemented and the loan repayment level under the chosen Plan; (b) whether first handler certificates should be issued and, if so, what restrictions should be placed on the use of such certificates; (c) whether loan deficiency payments should be made available and, if so, whether such payments should be made available in cash only or in cash and commodity certificates; (d) the percentage reduction under the acreage reduction program (ARP); (e) whether an optional land diversion program should be established and, if so, the percentage of diversion required under such a program; (f) whether a seed cotton recourse loan program should be implemented and, if so, the appropriate loan level and the method of adjustment to a lint basis; and (g) other related determinations. These determinations are to be made in accordance with the Agricultural Act of 1949, as amended (the "1949 Act"), and the Commodity Credit Corporation (CCC) Charter Act, as amended.

DATE: Comments must be received on or before September 12, 1988 in order to be assured of consideration.

ADDRESS: Dr. Orval Kerchner, Acting Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Leader, Fibers Group, Commodity Analysis Divsion, USDA–ASCS, Room 3741 South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 447–7954. The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed determination and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "major." It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The titles and numbers of the Federal assistance programs, as found in the catalogue of Federal Domestic Assistance, to which this notice applies are:

Titles	Numbers
Commodity Loans and Purchases	10.051
Cotton Production Stabilization	10.052

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

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

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

On April 19, 1988 (FR Vol. 53 No. 75) a notice of proposed determinations was published which set forth provisions common to the 1989 feed grains, wheat, upland cotton, extra long staple (ELS) cotton, and rice price support and production adjustment programs.

The comments received with respect to such notice and this notice of proposed determination which is applicable only to the 1989 crop of upland cotton will be reviewed in determining the provisions of the 1989 Upland Cotton Program. Comments must be received by September 12, 1988, in order to be assured of consideration.

Accordingly, the following program determinations are proposed to be made by the Secretary with respect to the 1989 crop of upland cotton.

a. *Plan A/Plan B and Loan Repayment Level.* Section 103A(a)(5) of the 1949 Act provides that if the Secretary determines that the prevailing world market price for upland cotton (adjusted to the United States quality and location) is below the loan level determined under section 103A(a) (1) and (2), then, in order to make United States upland cotton competitive in world markets, the Secretary shall implement the provisions of Plan A or Plan B.

If the Secretary elects to implement Plan A, the Secretary shall permit a producer to repay a loan made for the 1989 crop at a level determined and announced by the Secretary at the same time the Secretary announces the 1989 loan level. Such repayment level for the 1989 crop shall not be less than 80 percent of the 1989 loan level. Such repayment level, once announced for the crop, shall not thereafter be changed.

Section 103A(a)(5) further provides that if the Secretary elects to implement Plan B, the Secretary shall permit a producer to repay a loan made for the 1989 crop at the lesser of (1) the 1989 loan level; or (2) the prevailing world market price for upland cotton (adjusted to United States quality and location), as determined by the Secretary. Section 103A(a)(5) further provides that for the 1989 crop of upland cotton, if the prevailing world market price for cotton (adjusted to United States quality and location) as determined by the Secretary, is less than 80 percent of the 1989 loan level, the Secretary may permit a producer to repay the 1989 loan at such a level (not in excess of 80 percent of the 1989 loan level) as the Secretary determines will (1) minimize potential loan forfeitures; (2) minimize the accumulation of cotton stocks by the Federal Government; (3) minimize the cost incurred by the Federal Government in storing cotton; and (4) allow cotton produced in the United States to be marketed freely and competitively, both domestically and internationally.

Comments are requested on whether Plan A or Plan B should be implemented and the level of the loan repayment rate.

b. *First Handler Certificates.* Section 103A(a)(5)(D) of the 1949 Act provides for the Secretary to make payments to first handlers in the form of negotiable marketing certificates if the Secretary determines that a loan program carried out in accordance with Plan A or Plan B fails to make upland cotton fully competitive in world markets and that the prevailing world market price of upland cotton (adjusted to United States quality and location) is below the current loan repayment rate. CCC may assist any person receiving such negotiable marketing certificates in the redemption of such certificates for cash, or marketing or exchange of such certificates for upland cotton owned by CCC or (if the Secretary and the person agree) other agricultural commodities or the products thereof owned by the CCC at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the first handler program.

Comments are requested with respect to (1) whether first handler certificates should be issued, (2) what restrictions should be placed on the use of such certificates.

c. *Loan Deficiency Payments.* Section 103A(b)(1)–(5) of the 1949 Act provides that, for the 1989 crop of upland cotton, the Secretary may make payments available to producers who, although eligible to obtain a loan, agree to forgo obtaining such loan in return for such payments. Pursuant to that section, payments shall be computed by multiplying (1) the loan payment rate, by (2) the quantity of upland cotton the producer is eligible to place under loan. The section provides that the loan payment rate shall be the amount by which the loan level exceeds the loan repayment rate and that the quantity of upland cotton eligible to be placed under loan may not exceed the product obtained by multiplying the individual farm program acreage for the crop by the farm program payment yield established for the farm. Section 103A(b) further provides that the Secretary may make up to one-half the amount of such payment in the form of negotiable marketing certificates.

Comments are requested on whether loan deficiency payments should be made available and, if so, the percentage of each loan deficiency payment to be made available in the form of negotiable marketing certificates.

d. *Acreage Reduction Program.* Section 103A(f) of the 1949 Act provides that, with respect to the 1989 crop of upland cotton, if the Secretary determines the total supply of upland cotton, in the absence of an acreage reduction program (ARP), will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for an acreage reduction program.

If the Secretary elects to put an ARP into effect for 1989, the Secretary shall announce the program not later than November 1, 1988. The Secretary shall, to the maximum extent practicable, carry out an ARP for the 1989 crop of upland cotton in a manner that will result in a carryover of 4 million bales of upland cotton.

If an upland cotton ARP is announced, such reduction shall be achieved by applying a uniform percentage reduction (not to exceed 25 percent) to the upland cotton crop acreage base for the crop for each upland cotton-producing farm. Producers who knowingly produce upland cotton in excess of the permitted upland cotton acreage for the farm shall be ineligible for loans and payments with respect to that farm. Acreage on the farm to be devoted to conservation uses shall be determined by dividing (1) the product obtained by multiplying the number of acres required to be withdrawn from the production of upland cotton times the number of acres planted to upland cotton, by (2) the number of acres authorized to be planted to such commodity under the limitation established by the Secretary. This acreage is referred to as "reduced acreage."

Comments are requested on whether an ARP should be implemented and, if so, the appropriate percentage level of such limitation.

e. *Land Diversion Program.* Section 103A(f)(4)(A) of the 1949 Act provides that the Secretary may make land diversion payments to producers of upland cotton, whether or not an ARP is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into with the Secretary.

The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

Any additional acreage reduction (beyond the ARP) under a land

diversion program would be at a producer's option.

Comments are requested with respect to the need for an optional land diversion program as well as the provisions of such program.

f. *Loan Level for Seed Cotton.* Consideration is being given as to whether recourse loans should be made available to producers of seed cotton for the 1989 crop pursuant to the authority of the Charter Act and, if so, the level at which such loans should be made available for seed cotton under the 1989 program.

Comments are requested on whether a seed cotton recourse loan program should be implemented and, if so, the appropriate loan level for seed cotton and the method of adjustment to a lint basis for the purpose of determining the seed cotton loan value.

g. *Other Related Provisions.* A number of other determinations must be made in order to carry out the upland cotton loan program such as: (1) Premiums and discounts for grades, staples, and other qualities; (2) establishment of base loan rates by warehouse location; and (3) such other provisions as may be necessary to carry out the program.

Consideration will be given to any data, views and recommendations that may be received relating to these issues.

Authority: Secs. 103A, and 107E, of the Agricultural Act of 1949, as amended; 99 Stat. 1407, as amended, and 1448 (7 U.S.C. 1444–1, and 1445b–4); Secs. 4 and 5 of the Commodity Credit Corporation Charter Act, as amended; 62 Stat. 1070, as amended, 1072 (15 U.S.C. 714b and 714c).

Signed at Washington, DC, on July 7, 1988.

Milt Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 88–15873 Filed 7–13–88; 8:45 am]

BILLING CODE 3410–05–M

Forest Service

Land and Resource Management Planning; San Juan, Grand Mesa, Uncompaghre, and Gunnison National Forests

AGENCY: Forest Service, USDA.

ACTION: Notice; interpretation of appeal decision.

SUMMARY: On July 31, 1985, the Deputy Assistant Secretary for Natural Resources and Environment rendered a decision upon review of a decision by the Chief of the Forest Service of the Land and Resource Management Plans for the San Juan, Grand Mesa, Uncompaghre, and Gunnison National Forests. The decision was reviewed pursuant to the administrative appeal regulations governing decisions of Forest Service officers at 36 CFR 211.18. In response to queries from Forest Service field officers, the Deputy Chief for the National Forest System issued a letter to all Regional Foresters, dated June 23, 1988, addressing the extent to which the Deputy Assistant Secretary's decision is applicable to other forest plans. The text of that letter is set out at the end of this notice.

EFFECTIVE DATE: The interpretation of the Deputy Assistant Secretary's decision was effective on June 23, 1988.

FOR FURTHER INFORMATION CONTACT: Questions about this matter should be addressed to Everett Towle, Director, Land Management Planning Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, (202) 447–6697.

Date: July 8, 1988.

Mark A. Riemers,

Acting Chief, Forest Service.

Date: June 23, 1988.

Reply to: 1920; 1570

Subject: Secretary of Agriculture's decision on the appeals of the Forest Plans for the San Juan and Grand Mesa, Uncompahgre, and Gunnison National Forests

To: Regional Foresters

The Washington Office has received questions from field units regarding the implications of the Secretary of Agriculture's July 31, 1985, decision on the appeals of the Forest Plans for the San Juan and Grand Mesa, Uncompahgre, and Gunnison (GMUG) National Forests. The most common question is whether the Secretary's decision in these two appeals is also applicable to other National Forests.

The Secretary's decision found that the Regional Forester had not adequately explained his reasons for approving the San Juan and GMUG Forest Plans. It found that the Record of Decision in each case should have addressed three concerns: the rationale for the proposed vegetation management program, efforts to cut costs and raise revenues in the timber management program, and the circumstances under which timber sale levels would be increased during the planning period.

This decision was an interpretation of existing law, regulation, and policy rather than an attempt to create new policy for Forest planning. It applied existing policy to the specific factual situations of these two National Forests. Consequently, other National Forests with the same factual situations are subject to the same conclusions.

In addition, the Secretary's decision contains interpretations of existing law, regulation, and policy that have general application, particularly with respect to the role of economics in National Forest planning.

The balance of this letter provides some additional information on the rationale for the Secretary's decision and its implications for other National Forests. However, it is important that the decision be read in its entirety so that the context be understood. A copy is enclosed.

Background

The two appeals were brought by a coalition of environmental groups led by the Natural Resources Defense Council. They raised a number of issues, the most prominent of which included timber land suitability, timber harvest levels, and the environmental effects of timber management. The Chief's decisions on the appeals affirmed the Regional Forester on most issues but remanded the Plans and their EIS's with the instruction that additional information be added to the record on timber demand, timber land suitability, and timber sale scheduling.

The Secretary of Agriculture subsequently chose to review the Chief's decisions. The Secretary's decision, which was signed by Deputy Assistant Secretary Douglas W. MacCleery, found that the Regional Forester had not adequately explained his reasons for concluding that the alternative selected for each Plan maximized net public benefits. The decision emphasized the role of the Record of Decision in providing this explanation but recognized that some additional analysis might be required in order to support the conclusions that were reached. As Deputy Assistant Secretary MacCleery stated in a letter of clarification on September 11, 1985:

> My principal concern is that information clearly relevant to making the decision on the allowable sale quantity be brought forward and made a part of the public record. Additional analysis may or may not be necessary. If it is, consideration should be given to the costs of carrying it out in the light of the resource values involved.

In acting on the remand, the Regional Forester decided that the San Juan and GMUG would carry out some additional analysis to address some concerns identified in the Secretary's decision and to improve the overall quality of the Plans.

Rationale for the Secretary's Decision

The Secretary's decision letter reviews the statutory and regulatory

basis for Forest planning, as well as the Secretary's October 11, 1983, paper on "The Role of Economic Analysis in National Forest Land Management Planning and Decisionmaking," to identify the key principles that are pertinent to these appeals. As a general principle, the decision letter states that:

> * * * applicable regulations, policy, and planning procedural guidelines impose an obligation on the Forest Service to explain the economic implications of the planning alternatives it evaluates * * * [and] to utilize economic considerations not just in the evaluation of its planning alternatives, but in the development and formulation of these alternatives as well (p 5–6).

Within this general principle, the decision letter identifies a more specific one:

> A particularly strong obligation is imposed on the Forest Service to explain the economic, social and environmental tradeoffs which are likely to occur when resource objectives or responses to public issues are proposed which would reduce economic efficiency (reduced present net value) (p 6).

And even more specifically:

> Where, as is the situation on the San Juan and GMUG, the selected alternative authorizes an expansion of timber sales, and projections are for costs to exceed revenues for the entire planning horizon, a considerably greater burden is imposed on the Forest Service to provide even greater detail as on the rationale for, and specific benefits that will be achieved from such a continuation and expansion (p 6).

The decision letter then goes to emphasize the role of the Record of Decision (ROD) in providing the explanation that these principles call for. It states two fundamental requirements for the ROD. It must (1) explain in adequate detail why the selected alternative is thought to provide greater net public benefits than the other alternatives evaluated, and (2) explain how the information derived from the planning analysis was used in arriving at the decision as to the alternative to be selected.

Application to the San Juan and GMUG

The Secretary's decision letter characterizes the factual situation of the San Juan and GMUG Forest Plans as (1) proposing an expansion of a timber program in which projected timber sale revenues would fall short of projected timber costs for the entire planning horizon, and (2) projecting that the bulk of the costs would be for road construction and timber management activities while the bulk of the benefits would be nontimber and nonmarket benefits resulting from the vegetation management effects of the timber program.

Given these two key facts, the decision letter states that there should be consideration of ways to achieve both the timber and nontimber benefits more effectively. The letter concludes that the explanation in the ROD should address three areas: (1) The rationale for the proposed vegetation management program, why it is believed to maximize net public benefits, and why alternative approaches are less desirable; (2) efforts to cut costs and raise revenues for the timber program; and (3) the circumstances under which timber sales levels would be increased during the planning period.

The decision letter characterizes the rationale for the proposed vegetation management program on the two National Forests as follows: healthy vegetation is needed to provide a high level of benefits, a more balanced distribution of age classes is needed to ensure healthy vegetation, and a timber sale program is the best way to achieve the needed distribution of age classes. The decision letter states that the ROD must explain why the Regional Forester has reached these conclusions. The explanation should refer to the supporting evidence in the planning records. The decision letter on page 8 lists a number of specific questions as examples of the kinds of questions that should be explored when this evidence is developed. These are presented merely as examples of the kinds of questions that might be addressed rather than direction to exhaustively analyze these specific questions.

The decision letter cites with approval recent Forest Service efforts to cut costs and raise revenues of the timber management program. It states that the ROD must explain the likely effect of these efforts on the economics of the timber management program and the projections of below cost timber sales.

The timber sale levels allowed on these two National Forests (the ASQ's) are somewhat higher than the actual sale levels in recent years, but lower than the levels allowable under preceding timber management plans. The decision letter states that the ROD must explain the circumstances under which actual timber sale levels will be increased under the new plans. If timber sale levels are increased in response to increases in timber demand, there may be associated increases in timber prices. The ROD should explain the likely effect of such price increases on the economics of the timber management program. On the other hand, if sale levels are increased without increases in timber prices, local economies may become more dependent on a timber sale program in which revenues do not cover costs. If this is the course of action that the plans allow, the ROD should address the likely effects on community stability.

Implications for the Record of Decision

As stated above, the ROD for a Forest Plan must expalin why the selected alternative is believed to maximize net public benefits. National Forests with factual situations that are similar to those of the San Juan and GMUG may need to address the same concerns as those listed above in the ROD's for their plans. In making this judgment, responsible line officers should be guided by the following sources of direction:

1. General guidance on ROD's is found in 40 CFR 1505.2 and 1506.1(a); FSM 1953.4; FSH 1909.14–47.1, 47.11, and 47.12; 36 CFR 219.8(d), 219.10(c), and 219.12(j); and CEQ Forty Most Asked Questions (FSH 65.12) #10a, 14b, 19, 23c, 33b, and 34.

2. More specific guidance on using the ROD to explain why the selected alternative is believed to maximize net public benefits can be found in our 1570 letter of April 19, 1985. This letter was issued after the Chief's decision on the San Juan and GMUG appeals but before the Secretary's decision on review. The letter was cited with approval in the Secretary's decision. The contents of the letter have been incorporated into section 4.34 of the forthcoming Land and Resource Management Planning Handbook, FSH 1909.12.

3. Specific instructions on the treatment of below cost timber sales in ROD's and associated EIS's can be found in our 1920 letter of April 24, 1985.

4. General direction on the adjustment of timber sale levels in response to changes in market situations can be found in our 2430 letter of May 31, 1985. Additional direction on the discussion to appear in the ROD can be found in our 1920 letter of January 12, 1987.

Information Needs for Planning

As stated above, the explanation in the ROD must include an explanation of how the information developed in planning was used in selecting the perferred alternative. For National Forests which have factual situations similar to those of the San Juan and GMUG, the items listed below will be particularly important. Appendix B should summarize the principal conclusions reached on all of these items and should provide specific references to the places in the planning records where the underlying information may be found.

1. *Financial Analysis of Timber Management.* This is called the "Stage II" analysis in the Secretary's decision. It is an examination of the costs and revenues of timber options for the various timber strata that are identified on a Forest. It is required for all National Forests by 36 CFR 219.14(b). Detailed guidance on carrying out this analysis can be found in Chapter 20 of the Timber Planning Handbook (FSH 2409.13).

The summary of the financial analysis should describe the principal conclusions with respect to costs and revenues for the timber options considered and how this information was used in the formulation of alternatives and in the development and selection of prescriptions to be applied to specific lands. It will provide one of the bases for the subsequent discussion in the ROD of the economic implications of the planning alternatives and the proposed timber management program.

2. *Sensitivity analysis.* Sensitivity analysis is an analysis of how net economic values, outputs, and effects change as the principal items of input data in the analysis vary through their likely future range. In this case, the purpose of the analysis is to determine how the economics of timber management are affected by varying assumptions regarding future costs, revenues, and benefits.

There are a number of ways in which sensitivity analysis can be accomplished. The range of appropriate methods might include systematic variation of the variables in the financial analysis, sequential runs of the planning model for one or more of the Benchmarks constructed for the AMS or the preferred alternative, or special studies. The choice of the appropriate method will depend upon the specific situation in which a Forest finds itself. Guidance can be found in section 16.1 of the Economic and Social Analysis Handbook (FSH 1909.17). Particular attention should be given to assessing how reasonably achievable reductions in timber related costs would affect economic efficiency and the area of land identified as unsuitable for timber production.

The results of the analysis will provide a basis for the discussion in the ROD of how net public benefits of the vegetation management program may be affected by changes in timber prices or quantities demanded in the timber market or by the National Forest's own efforts to cut costs and raise revenues of timber management programs.

3. *Costs of alternative vegetation management practices.* Under 36 CFR 219.1, all National Forests have an obligation to ensure that Forest Plans provide for management in a manner that is sensitive to economic efficiency. Under 36 CFR 219.12(f), all planning alternatives must represent cost efficient means of accomplishing objectives. Thus, whenever National Forests propose timber management programs as means to achieve vegetation management objectives, they have an obligation to examine the relative efficiency of achieving these vegetation management objectives through other means, such as prescribed fire.

There are a number of ways in which this can be accomplished. The range of appropriate methods might include the study of vegetation management options in the financial analysis, consideration of planning alternatives that featured alternative methods for achieving vegetation management objectives, or special studies of the costs of various vegetation management practices.

4. *Demand.* Analysis of demand for both timber and other goods and services of the National Forests is required for all National Forests by 36 CFR 219.12(e). Detailed guidance for conducting the analysis can be found in FSM 1971 and Chapter 10 of the Economic and Social Analysis Handbook (FSH 1909.17).

The results of the timber demand study will establish a basis for expectations regarding future prices and quantities for timber. This, in turn, will provide a basis for the discussion in the ROD of the effects of demand changes on the economics of timber management and the net public benefits of the planning alternatives.

The results of the demand study for nontimber benefits will establish a basis for the discussion in the ROD regarding the need for and benefits of the nontimber outputs of the vegetation management program.

5. *Effects on local communities.* Analysis of community effects is required for all National Forests by 36 CFR 219.12(g). Detailed guidance can be found in FSM 1972 and 1973 and in existing Chapter 30 and forthcoming Chapter 20 of the Economic and Social Analysis Handbook (FSH 1909.17).

The analysis will provide both quantitative and nonquantitative information regarding the effects of the planning alternatives on local communities. It will provide one of the bases for the discussion in the ROD of the net public benefits associated with below cost sale programs.

General Applicability of the Secretary's Decision

As a general matter, the Secretary's interpretation of the role of economic analysis is applicable to all National Forests. For Forests without approved plans, draft and final plans, and NEPA documents must meet the standards described by the Secretary's decision and other national direction.

Forests with approved plans should evaluate during annual monitoring and evaluation the degree of similarity between their factual situations and those of the San Juan and GMUG National Forests. If a National Forest is found to have a similar factual situation, its planning records should be further evaluated to determine if the information included or cited in the planning records is sufficient to support the necessary discussion in the ROD for the Forest Plan. The ROD should also be evaluated to determine if it meets the standards described by the Secretary's decision and other national direction. If inadequacies are identified, remedial work should be scheduled as part of Forest Plan revisions or as part of amendments related to timber management.

James C. Overbay,

Deputy Chief.

[FR Doc. 88–15896 Filed 7–13–88; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Switching Subcommittee Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committee will be held August 2, 1988, 1:00 p.m. Herbert C. Hoover Building Room B–841, 14th Street & Constitution Avenue, NW., Wash, DC. The Switching Subcommittee was formed to study computer controlled switching equipment with the goal of making recommendations to the Office fo Technology & Policy Analysis relating to the appropriate parameters for controlling exports for reasons of national security.

General Session

1. Opening remarks by the Chairman.

2. Presentation of papers or comments by the public.

3. Discussion of trunked radar systems.

4. Discussion of radio paging systems.

5. Continuation of discussion on CCL 1565 and 1567.

6. Discussion of annual Report/ Annual Plan.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A Copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, call Betty Ferrell at (202) 377–2583.

Date: July 8, 1988.

Betty A. Ferrell,

Acting Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 88–15823 Filed 7–13–88; 8:45 am]

BILLING CODE 3510–DT–M

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held August 2, 1988, 9:30 a.m., Room B–841 at the Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to telecommunications and related equipment or technology.

Agenda:

Open Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Development of Annual Report/ Annual Plan.
4. Discussion of export control status of GPS receivers.
5. Report by Switching Subcommittee on spare parts.
6. Discussion of CCL 1565/1567 issues and:
   a. Related equipment.
   b. Packet switching.
   c. Local area networks and wide area networks.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes, call Betty Ferrell at (202) 377–2583.

Date: July 8, 1988.

Betty Anne Ferrell,

Acting Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 88–15824 Filed 7–13–88; 8:45 am]

BILLING CODE 3510–DT–M

Fiber Optics Subcommittee, Telecommunications Equipment, Technical Advisory Committee; Partially Closed Meeting

A meeting of the Fiber Optics Subcommittee of the Telecommunications Equipment Technical Advisory Committee will be held August 2, 1988, 1:00 p.m., Herbert C. Hoover Building, Room 1092, 14th Street & Constitution Avenue, NW., Washington, DC. The Fiber Optics Subcommittee was formed to study fiber optic communications equipment with the goal of making recommendations to the Office of Technology & Policy Analysis relating to the appropriate parameters for controlling exports for reasons of national security.

Agenda

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of Annual Report/ Annual Plan.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified material listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, call Betty Ferrell at (202) 377–2583.

Date: July 8, 1988.

Betty Anne Ferrell,

Acting Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 88-15825 Filed 7-13-88; 8:45 am]

BILLING CODE 3510-DT-M

[C-357-801]

Preliminary Affirmative Countervailing Duty Determinations; Certain Welded Carbon Steel Pipe and Tube Products from Argentina

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Argentina of certain welded carbon steel pipe and tube products (pipe and tube) as described in the "Scope of Investigations" section of this notice. The estimated net bounties or grants are specified in the "Suspension of Liquidation" section of this notice.

We are directing the U.S. Customs Service to suspend liquidation of all entries of pipe and tube from Argentina that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and to require a cash deposit or bond on entries of these products in an amount equal to the appropriate estimated net bounty or grant as specified in the "Suspension of Liquidation" section of this notice.

If these investigations proceed normally, we will make final determinations by September 20, 1988.

EFFECTIVE DATE: July 14, 1988.

FOR FURTHER INFORMATION CONTACT: Roy Malmrose or Gary Taverman, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-2815 or 377-0161.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based on our investigations, we preliminarily determine that there is reason to believe or suspect that benefits which constitute bounties or grants within the meaning of section 303 of the Traiff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Argentina of pipe and tube. For purposes of these investigations, the following programs are preliminarily found to confer bounties or grants:

- Export Payments Provided Under Decree 176
- Pre-Export Financing

Case History

Since the last **Federal Register** publication pertaining to these investigations (the Notice of Initiation (53 FR 13431, April 25, 1988)), the following events have occurred. On May 5, 1988, we presented a questionnaire to the Government of Argentina in Washington, DC, concerning petitioners' allegations.

On May 24, 1988, Trafilam S.A. filed a timely request for exclusion from any countervailing duty order resulting from these investigations. We notified the Government of Argentina regarding the requirements associated with the exclusion process. We received certifications from the Government and the Central Bank of Argentina regarding Trafilam's exclusion request on June 8, 9, and 13, 1988. However, on June 29, 1988 Trafilam informed the Department that it had not exported the subject merchandise during the review period. As such, Trafilam does not qualify as a respondent in these investigations and is not eligible to request exclusion from any resulting countervailing duty order.

On June 13, 1988, we received responses from the Government of Argentina and the following companies: Acindar Industria Argentina de Aceros S.A. (ACINDAR), Comatter S.A. (COMATTER), Tubos Argentinos S.A. (TASA), and Laminfer S.A. (LAMINFER). According to these responses, ACINDAR, COMATTER and TASA produce and export standard pipe, COMATTER produces and exports line pipe, and LAMINFER produces and exports light-walled rectangular tubing. We did not receive responses from any manufacturer, producer, or exporter in Argentina of heavy-walled rectangular tubing. Therefore, this preliminary determination with respect to heavy-walled rectangular tubing is made on the basis of the best information available.

On June 30, 1988, we presented supplemental and deficiency questionnaries to the Government of Argentina and the above-referenced companies. On June 30, and July 1, 5, and 6, 1988, we received supplemental responses from ACINDAR, COMATTER, TASA, and LAMINFER. On July 6, 1988, we received a supplemental response from the Government of Argentina.

Scope of Investigations

The products covered by these investigations are certain welded carbon steel pipe and tube products from Argentina. These products constitute the following four separate "classes or kinds" of merchandise:

(1) *Standard Pipe:* Certain circular welded carbon steel pipes and tubes, 0.375 inch or more but not over 16 inches in outside diameter, generally known in the industry as standard pipe. This is a general-purpose commodity used in such applications as plumbing pipe, sprinkler systems, and fence posts. Standard pipe may be supplied with an oil coating (black pipe) or may be galvanized, and is sold in plain ends, threaded, threaded and coupled, or beveled. These products are generally produced to ASTM specifications A-120, A-53, or A-135. Imports of these products are classified under TSUSA categories 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925, and are classified under HS categories 7306.30.1000, 7306.30.5025, 7306.30.5030, 7306.30.5040, 7306.30.5045, 7306.30.5050, 7306.30.5060, 7306.30. 5065, and 7306.30.5075. Oil country tubular goods entering under TSUSA categories 610.3242, 610.3243, 610.3252, 610.3254, and 610.3258 are already covered by a countervailing duty order and are not covered by these investigations.

(2) *Line Pipe:* Certain welded carbon steel American Petroleum Institute (API) line pipe, 0.375 inch or more but not over 16 inches in outside diameter known in the industry as line pipe. Line pipe generally is produced to API specification 5L. Line pipe is used for the transportation of gas, oil, or water, generally in pipeline or utility distribution systems. API line pipe not over 16 inches in outside diameter is classified under TSUSA categories 610.3208 and 610.3209, and are classified under HS categories 7306.10.1010 and 7306.10.1050.

(3) *Heavy-Walled Rectangular Tubing:* Certain heavy-walled carbon steel rectangular tubing having a wall thickness of 0.156 inch or greater, which is generally used for support members for construction or loan-bearing purposes in construction, transportation, farm, and material-handling equipment. The product is generally produced to ASTM specification A-500, Grade B. Imports of heavy-walled rectangular tubing are classified under TSUSA category 610.3955, and are classified under HS category 7306.60.1000.

(4) *Light-Walled Rectangular Tubing:* Certain light-walled carbon steel rectangular tubing having a wall

thickness of less than 0.156 inch, which is generally employed in a variety of end uses not involving the conveyance of liquid or gas, such as agricultural equipment frames and parts, and furniture parts. The product is generally produced to ASTM specification A–513 or A–500, Grade A. Imports of light-walled rectangular tubing are classified under TSUSA category 610.4928, and are classfied under HS category 7306.60.5000.

Analysis of Programs

Consistent with our practice in preliminary determinations, when a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, however, are subject to verification. If the response cannot be supported at verification, and a program is otherwise countervailable, it will be considered a bounty or grant in the final determination.

For purposes of these preliminary determinations, the period for which we are measuring bounties or grants ("the review period") is calendar year 1987. As is common under our method of analysis, if the companies under investigation have different fiscal years, which is the case in these investigations, our review period is the most recently completed calendar year. Based upon our analysis of the petition and the responses to our questionnaire, we preliminarily determine the following:

I. Programs Preliminarily Determined to Confer Bounties or Grants

We preliminarily deterimine that bounties or grants are being provided to manufacturers, producers, or exporters in Argentina of pipe and tube under the following programs:

A. Export Payments Provided Under Decree 176

In February 1986, the government established Decree 176 to provide "special incentives to producer and exporter companies of promotional goods and services," which participate in the Reembolso program under Decree 1555/86 (discussed in Section II below) and fulfill requirements of the Special Export Program. In order to qualify for export payments under this decree, the producing and/or exporting company must increase exports by a minimum of two million U.S. dollars per year or by ten million U.S. dollars for the duration of the program, not to exceed five years. Decree 176 also allows the Secretary of Industry and Foriegn Trade the discretion to grant exceptions to program requirements.

In our questionnaire, we asked for all relevant laws and decrees, along with English translations, for each program under investigation. However, in its response, the Government of Argentina provided neither a copy of the original nor an English translation of Decree 176. These documents were, however, provided in the petition.

On the basis of our understanding of Decree 176, the program operates to provide the following benefits. For each company qualifying for the Special Export Program, the amount of the export payment equals 15 percent of the company's increase in exports over a certain base period. An additional payment equal to five percent of the increase is available if export sales are made to new markets or to previously lost markets.

According to the government and company responses, none of the standard and line pipe companies received benefits provided under Decree 176. The government response, however, states that "with regard to the light- and heavy-walled rectangular tubing industries, benefits have been renounced on shipments of the investigated products exported after June 1, 1988." This statement indicates that the light- and heavy-walled rectangular tubing producers received Decree 176 benefits during the review period. However, no information on the amount of benefits received was provided in the government or company questionnaire responses. Therefore, as the best information available, we are assuming that the light- and heavy-walled rectangular tubing producers received benefits under Decree 176 during the review period.

Because this program provides benefits contingent on export performance and does not function as a rebate of indirect taxes, we preliminarily determine that it confers a bounty or grant. The benefit equals the amount of the payments provided under this program.

Using the best information available, we assume that the light- and heavy-walled rectangular tubing producers received both the 15 and five percent export payments. We determined the increase in the value of exports by comparing the Department's IM–146 import statistics for 1986 and 1987. The resulting percentage difference was applied to the 1987 value of exports of light-walled rectangular tubing to the United States reported in the response of the producer of light-walled rectangular tubing. To arrive at the benefit, we multiplied this estimated increase by 20 percent. We then divided the resulting amount by the value of light-walled rectangular tubing exports to the United States. Given that no response was filed on behalf of the heavy-walled rectangular tubing producers, we have assigned heavy-walled rectangular tubing, as best information available, the same estimated net bounty or grant calculated for the light-walled rectangular tubing producers. Thus, the estimated net bounty or grant for both light- and heavy-walled rectangular tubing under Decree 176 is 17.21 percent *ad valorem*. For line pipe and standard pipe, the estimated net bounty or grant is zero percent.

B. Pre-Export Financing

Under Circular RF–153 of the Central Bank of Argentina, exporters may receive pre-export financing through austral-denominated loans. The amount of the loan can equal up to 65 percent of the f.o.b. export value, if the merchandise to be exported is produced solely from domestically-produced inputs. If the exporter uses imported materials, then the level of financing is reduced according to the import-content of the merchandise to be exported. Loans under this program are paid out to individual corporate borrowers by commercial banks which are reimbursed by the Central Bank. The loans are extended for a maximum period of 180 days.

The loan principal and interest payments under this program are indexed to the austral/dollar exchange rate. The loans are given in australes but are tied to a fixed dollar amount based on the exchange rate prevailing on the date of the loan. At the time of repayment, the fixed dollar amount is reconverted to australes based on the exchange rate prevailing on that date, and the borrower must repay the new austral amount. In addition, the borrower must make quarterly interest payments in australes applying a one percent annual interest rate to the fixed dollar amount reconverted to australes at the exchange rate prevailing at the end of each quarter. (According to the responses, the interest rate on these loans was increased to five percent effective June 3, 1988.)

Because only exporters are eligible for these loans, we preliminarily determine that they are countervailable to the extent that they are provided at preferential interest rates. We are using as our benchmark rate the average of

the regulated and unregulated interest rates on short-term loans as reported in the Government of Argentina response and as published by the Fundacion de Investigaciones Economicas Latinoamericanas (FIEL). This is consistent with our practice of using the national average commercial interest rate or the most comparable, predominant commercial rate for short-term financing as the benchmark for short-term loans.

We calculated the amount of interest that would have been paid at the benchmark rate on loans related to sales to the United States of each of the classes or kinds of merchandise on which interest was paid during the review period. Given that we consider the increase in the principal due to indexation to be part of the company's interest obligation, we compared the amount calculated above to the sum of the interest payments and the increase in the principal due to indexation actually paid by each of the companies. In all cases, we found that the amount of interest paid under this program was less than the amount of interest calculated at the benchmark rate. Therefore, we preliminarily determine that the pre-export financing under this program confers a bounty or grant.

According to the company responses, COMATTER and LAMINFER received loans under this program on which interest was paid during the review period. To derive the benefit for each of the companies under investigation, we divided the interest payment difference described above by the total sales to the United States of the respective class or kind of merchandise by each of the companies under investigation.

On this basis, with respect to standard pipe, we calculate an estimated net bounty or grant of zero percent for ACINDAR and TASA and 4.24 percent *ad valorem* for all other producers of standard pipe. We calculate an estimated net bounty or grant of 2.46 percent *ad valorem* for all producers of line pipe, and of 6.92 percent *ad valorem*for all producers of light-walled rectangular tubing. Since no producers of heavy-walled rectangular tubing responded to our questionnair, as the best information available, we have assigned to them the highest of the rates calculated for the other three classes or kinds of merchandise under investigation. We therefore calculated an estimated net bounty or grant of 6.92 percent *ad valorem* for all producers of heavy-walled rectangular tubing.

II. Program Preliminarily Determined Not To Confer a Bounty or Grant

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Argentina of pipe and tube under the following program:

Reembolso

The Reembolso program was established in 1971. It authorized a cash refund, upon export, of taxes "that bear directly or indirectly" on exported products and/or their component raw materials for the purpose of promoting exports. In October 1986, the Government of Argentina, through Decree 1555/86, revised the Reembolso program making it "exclusively a refund of indirect taxes physically included in the incorporated costs of the exported goods," independent of other "macro-economic functions."

Decree 1555/86 set precise guidelines for implementing this refund program. Three broad rebate levels were established to replace the separate rebate rates for each product or industry sector that had existed under the previous program. The rates are 10 percent for level I, 12.5 percent for level II, and 15 percent for level III. Pipe and tube producers are eligible for level II benefits.

To determine whether an indirect tax rebate system which incorporates rebates of import duties confers a bounty or grant, we perform the following analysis. First, we examine whether the system is intended to operate as a rebate of both indirect taxes and import duties. Next, we analyze whether the government properly ascertained the level of the rebate. This requires an alaysis of the calculation of the indirect thax incidence of inputs which are physically incorporated in the exported product. Finally, we review whether the rebate schedules are revised periodically in order to determine if the rebate amount reflects the amount of actual duties and indirect taxes paid.

When the study upon which the indirect tax and import duty rebate system is based meets the three tests identified above, the Department will consider that the system does not confer a bounty or grant if the amount rebated does not exceed the amount of duties and indirect taxes on physically incorporated inputs. When the system rebates duties and indirect taxes on both physically incorporated and non-physically incorporated inputs, we find that a bounty or grant exists to the extent that the fixed rebate exceeds the indirect tax and duty incidence on physically incorporated inputs. Based on these tests, we preliminarily determine the following.

As the language of Decree 1555/86 cited above clearly shows, the purpose of the Reembolso is to refund indirect taxes on the physically incorporated inputs to exported products. Thus, we preliminarily determine that the program is intended to operate as a rebate of indirect taxes and, therefore, meets our first test.

The next step in our analysis is to examine whether the government properly ascertained the level of the rebate. We have reviewed the documentation submitted by the government in its response. The government provided a study of the indirect tax incidence in the pipe and tube industry. Although the study includes indirect taxes on both physically and non-physically incorporated inputs, it appears that the level of eligibility for the Reembolso has been calculated using the indirect taxes on physically incorporated inputs at the final stage of production, plus an aggregate percentage of indirect tax incidence on prior stage inputs. However, the government response did not provide a breakdown of the indirect tax incidence for all prior stages of production as requested in our questionnaire. Since prior stage production could include indirect taxes on both physically and non-physically incorporated inputs, we estimated the share of prior stage indirect taxes attributable to physically incorporated inputs. To do this, we multiplied the ratio of indirect taxes on physically incorporated inputs at the final stage of production to total indirect tax incidence at the final stage of production by the aggregate level of tax incidence reported for prior stages. We are disallowing the estimated amount of indirect taxes on non-physically incorporated inputs attributable to certain prior stages of production.

Taking into account these disallowances, we recalculated the amount of indirect taxes on inputs physically incorporated into pipe and tube and found that the Reembolso of 12.5 percent is less than the allowable indirect tax incidence. As such, we find that the Reembolso on pipe and tube is not excessive and, therefore, not countervailable.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs were not used by manufacturers, producers, or exporters

in Argentina of pipe and tube during the review period:

A. Post-Export Financing

Petitioners alleged that Argentine pipe and tube exporters are receiving low-interest post-export financing from the Central Bank of Argentina under OPRAC–1, Chapter 1, section 2.3. Under our standard short-term methodology, we consider a benfit to have been received when interest is paid. According to the responses, none of the pipe and tube producers paid interest on any post-export financing loans during the review period.

B. Corrientes Regional Tax Incentives

Under National Law 20560, Corrientes Law 5751/74, and Decrees 2633/75, 9641/81, and 32031/76, companies located in the Corrientes Province are eligible for certain tax benefits. According to the responses, none of the companies covered by these investigations have facilities located in this area.

C. Industrial Parks

Firms which operate in designated industrial parks receive special credit from local banks, tax exemptions, and infrastructure benefits. According to the responses, none of the companies covered by these investigations have facilities located in an industrial park.

D. Low Cost Loans for Projects Outside Buenos Aires

The 1977 Industrial Promotion Law for Projects Outside Buenos Aires provides government-mandated, low-cost loans to eligible companies. According to the responses, none of the pipe and tube producers received loans for projects outside Buenos Aires.

E. Discounts of Foreign Currency Accounts Receivable Under Circular RF–21

Argentina Central Bank Circular RF–21 authorizes the discounting of foreign currency accounts receivable at an interest rate less than the national average commercial rate for short-term borrowing. According to the responses, none of the companies under investigation have received financing under RF–21.

F. Exemption from Stamp Tax Under Decree 186/76

Under Decree 186/76, Certain Argentine industries receive an exemption from paying stamp taxes. According to the responses, the Government of Argentina has not exempted the companies under investigation from payment of Stamp Tax under Decree 186/76.

G. Government Trade Promotion Programs

Trade promotion programs, which are funded by the Government of Argentina, are designed to increase the participation of Argentine companies in international trade fairs and trade missions. According to the responses, the Government does not maintain any trade promotion programs.

Verification

In accordance with section 776(a) of the Act, we will verify the information used in making our final determinations.

Suspension of Liquidation

In accordance with sections 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of pipe and tube from Argentina (except as noted below) which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond in the amounts indicated below:

Manufacturers /producers/ exporters	Estimated net bounty or grant
Standard Pipe:	
ACINDAR	0.00% (excluded)
TASA	0.00% (excluded)
COMATTER and all other companies.	4.24%
Line Pipe:	
All companies	2.46%
Heavy-walled Rectangular Tubing:	
All companies	24.13%
Light-walled Rectangular Tubing:	
All companies	24.13%

This suspension of liquidation will remain in effect until further notice.

Public Comment

In accordance with 19 CFR 355.35, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on these preliminary determinations on August 16, 1988, at 10:00 a.m. at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Assistant Secetary for Import Administration, Room B–099, at the above address within ten days of the publication of this notice in the **Federal Register.**

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary version and seven copies of the nonproprietary version of the pre-hearing briefs must be submitted to the Assistant Secretary by August 9, 1988. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 355.33(d) and 355.34, written views will be considered if received not less than 30 days before the final determinations are due or, if a hearing is held, within seven days after the hearing transcript is available.

These determinations are published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f).

Jan W. Mares,

Assistant Secretary for Import Administration.

July 7, 1988.

[FR Doc. 88–15883 Filed 7–13–88; 8:45 am]

BILLING CODE 3510–DS–M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate 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 indentified 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 a certificate should be issued. An orginal and five (5) copies should be submitted not later than 20 days after the date of tis 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 refer to this application as "Export Trade Certificate of Review, application number 88–00009." A summary of the application follows.

Applicant: Port of Montana Port Authority (POMPA), P.O. Box 3741, Butte, Montana 59702.

Contact: Mr. Kurt Krueger, Attorney-at-Law. Telephone: (406) 782–2365.

Application #: 88–00009

Date Deemed Submitted: July 1, 1988

Members (in addition to applicant): Port of Montana, Inc., Butte, Montana.

Summary of the Application

Export Trade

Products

All products.

Related Services

Consulting; international market research; advertising; marketing; insurance; product research and design; legal assistance; transportation, including trade documentation and freight forwarding; communication and processing of foreign orders; warehousing; foreign exchange; financing; and taking title to goods.

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 Commoweath of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonweath of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

POMPA seeks certification to:

1. Require exporters using its export trade services to:

a. Use it as an intermediary in arranging for transportation and financing; and

b. Export through the Port of Montana.

2. Study the feasibility of ,oint export ventures by collecting:

a. Commercial, financial, or industry information that is already generally available to the trade or public, and

b. Commerical, financial, or industry information that is not already generally available to the trade or public from prospesctive participants that produce or supply similar or substitutable commodities.

3. Study the feasibility of such information mentioned in Item 2 above provided that:

a. POMPA shall solicit such information from at least three companies that produce or supply each commodity to be exported,

b. POMPA shall not disclose the number of indentities of companies solicited, and

c. POMPA shall limit access to the information collected by POMPA and appropriate POMPA staff.

4. Distribute separately to each prospective participant the results of its feasibility study, which may contain, if materially related to the venture:

a. Information that is already generally available to the trade or public;

b. Information (such as selling strategies, prices in the foreign market, projected demand, and customary terms of sale) solely about the Export Markets;

c. Information on expenses specific to exporting to the Export Markets (such as ocean freight, inland freight to the terminal or port, terminal or post storage, wharfage and handling charges, insurance, agents' commissions, export sales documentation and service, and export sales financing); and

d. Other information, except individual firm data (whether past, current, or projected) concerning domestic prices, costs of production, production capacity, production volume, domestic sales volume, and inventories.

5. Require prospective participants or participants in a joint export venture to agree not to compete, upon withdrawal from the venture, for export orders for which the venture has bid or annouced its intention to bid.

Dated: July 8, 1988

John E. Stiner,

Director, Office of Export Trading Company Affairs.

[FR Doc. 88–15833 Filed 7–13–88; 8:45 am]

BILLING CODE 3510-DR-M

Subcommittee on Export Administration of the President's Export Council; Partially Closed Meeting

A partially closed meeting of the President's Export Council Subcommittee on Export Administration will be held August 9, 1988, 9:00 a.m. to 3:00 p.m. The open session will be held at the Herbert C. Hoover Building, in Room 4820, 14th & Constitution Avenue, NW., Washington, DC from 9:00 a.m. until 11:45 a.m. The afternoon session meeting from 1:30 p.m. to 3:00 p.m., will be closed. It will be held at the same site, the Herbert C. Hoover Building, Room 4830.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act as amended, that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

General Session: 9:00–11:45 a.m. Departmental updates, objectives of Subcommittee; working group status reports.

Executive Session: 1:30–3:00 p.m. Discussion of matters properly classified under Executive Order 12356 pertaining to the control of exports for national security, foreign policy or short supply reasons under the Export Administration Amendments Act of 1979, as amended. A Notice of Determination to close meetings or portions of meetings of the Subcommittee to the public on the basis of 5 U.S.C. 522(c)(1) was approved October 27, 1987 in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC 20230.

For further information, contact Sharon Gongwer, (202) 377–3856.

Date: July 9, 1988.

Michael E. Zacharia,

Assistant Secretary for Export Administration.

[FR Doc. 88–15882 Filed 7–13–88; 8:45 am]

BILLING CODE 3510-DT-M

Applications for Duty-Free Entry of Scientific Instruments; University of Illinois et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Matterials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (a)(4) of the regulations

and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 87–048R. *Applicant:* University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, IL 61801. *Instrument:* Cryostat System for Mossbauer Spectrometer. *Manufacturer:* Technology Systems Ltd., United Kingdom. Original notice of this resubmitted application was published in the **Federal Register** of December 12, 1987.

Docket Number: 87–181R. *Applicant:* University of Wisconsin-Madison, Department of Biochemistry, 420 Henry Mall, Madison, WI 53706. *Instrument:* NMR Spectrometer, Model AM 400 WB. *Manufacturer:* Bruker Instruments Inc., Switzerland. Original notice of this resubmitted application was published in the **Federal Register** of June 28, 1987.

Docket Number: 87–182R; Combined Resubmission of Docket Numbers 87–182 and 87–183. *Applicant:* University of Wisconsin-Madison, Department of Biochemistry, 420 Henry Mall, Madison, WI 53706. *Instrument:* NMR Spectrometer, Model AM 500 and NMR Spectrometer Data Station. *Manufacturer:* Bruker Instruments, Inc., Switzerland. Original notice of this resubmitted application was published in the **Federal Register** of May 28, 1987.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88–15884 Filed 7–13–88; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council and the Council's Standing Committees will convene public meetings at the King Kamehameha Hotel, Kailua-Kona, HI, as follows:

Council—at its 62nd meeting on August 10, 1988, at 9 a.m., will deliberate making changes to the fishery management plans (FMPs) for crustaceans, large pelagic species, bottom fish and seamount groundfish, and precious corals on the basis of advice received from the Council's Advisory Panels, its Plan Monitoring Teams, and its Scientific and Statistical Committee. The public is encouraged to participate in these deliberations.

It is anticipated that the Council will adopt a fisheries habitat policy, approve experimental fishing permit guidelines for the precious coral fishery, appoint members to the Advisory Review Board for Limited Entry, address reporting requirements under the proposed national standards, administrative guildelines and regulations, adopt a decision on fishing power criteria for the bottomfish fishery in the Northwestern Hawaiian Islands, adopt a recommendation regarding proposed observer coverage on domestic fishing vessels, adopt a two-year administrative and programmatic budget for 1989–1990, and adopt a five-year program of data and research needs with respect to each of the FMPs.

The Council also may review precious coral experimental fishing applications and adopt changes to management approaches to FMPs based on recommenations of its advisors.

The public meeting will include reports from Islanders, fisheries agencies and organizations, Council standing committees, reports on foreign fishing and foreign and domestic enforcement, as well as on FMPs, reports on the five-year program, data and research needs, meetings, conferences, administrative matters, etc. The meeting will reconvene August 11 at 9 a.m.

Plan Monitoring Teams—on August 8 at 8:30 a.m., the Crustaceans, Bottomfish and Seamount Groundfish, Pelagic Species, and Precious Corals Plan Monitoring Teams will meet concurrently to discuss data and research needs for FMPs for 1990–1995. They will review management approaches now undertaken and determine if changes to the approaches are warranted. The Crustaceans Plan Monitoring Teams will discuss how to change the FMP into a framework document to make new management measures more timely to implement. The Bottomfish Plan Monitoring Team will discuss fishing power criteria for replacement of fishing under the limited entry program for the bottomfish fishery in the Northwestern Hawaiian Islands. The Precious Corals Plan Monitoring Team will review guidelines for experimental fishing permits. The public meeting will adjourn at 12:30 p.m.

Advisory Panels—on August 8 at 1:30 p.m., the Crustaceans, Bottomfish and Seamount Groundfish, Pelagic Species and Precious Corals Advisory Panels will meet concurrently to receive reports on the status of the fisheries covered by the FMPs, and additional management needs. The Advisory Panels will discuss research, data and management needs for each respective FMP and make recommendations to the Council for action.

Scientific and Statistical Committee (SSC)—on August 8 at 1:30 p.m., at its 43rd public meeting, will review the FMPs for crustaceans, pelagic species, bottomfish and seamount groundfish, precious corals, and will develop new research and data needs regarding these FMPs. The SSC will formulate recommenations to the Council based on these reviews. The meeting will also include reviews of proposed regulations and guidelines regarding fisheries management processes, and observes coverage on domestic vessels. There also will be reports on ongoing fisheries research and new research proposals. The public meeting will reconvene on August 9 at 8 a.m., and adjourn at 5 p.m.

For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Date: July 8, 1988.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–15848 Filed 7–13–88; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; The Maritime Center of Norwalk (P417)

On March 29, 1988, notice was published in the **Federal Register** (53 FR 10139) that an application had been filed by The Maritime Center of Norwalk, 112 Washington Street, South Norwalk, Connecticut 06854, to take harbor seals (*Phoca vitulina*) for public display.

Notice is hereby given that on July 11, 1988, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Services issued a Permit for the above taking, subject to certain conditions set forth therein.

The Permit is available for review by interested perons in the following office(s):

Permit Division, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Room 805, Washington, DC; and

Director, Northeast Region, National Marine Fisheries Service NOAA 14

Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

Dated: July 11, 1988.

[FR Doc. 88-15886 Filed 7-13-88; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; National Zoological Park, Smithsonian Institution (P6K)

On May 4, 1988, notice was published in the **Federal Register** (53 FR 15864) that an application had been filed by the National Zoological Park, Smithsonian Institution, for a permit to take and import milk samples from Argentina taken from 40 Juan Fernandez fur seals and 20 southern sea lions taken in Chile for scientific research.

Notice is hereby given that on July 11, 1988 as authorized by the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Room 805, Washington, DC;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702; and

Director, Northeast Region, National Marine Fisheries Service, Federal Bldg., 14 Elm Street, Gloucester, Massachusetts 01930.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

Date: July 11, 1988.

[FR Doc. 88-15887 Filed 7-13-88; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; John G. Shedd, Aquarium (P396A)

On April 19, 1988, notice was published in the **Federal Register** (53 FR 12801) that an application had been filed by the John G. Shedd Aquarium, 1200 South Lakeshore Drive, Chicago, Illinois 60605 for a permit to capture and maintain eight (8) Pacific white-sided dolphins *(Lagenorhynchus obliquidens)* for public display.

Notice is hereby given that on July 11, 1988 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Date: July 11, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 88-15888 Filed 7-13-88; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent to Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Xoma Corporation, having a place of business in Berkeley, CA 94710, an exclusive right in the United States and certain foreign countries to practice the invention embodied in U.S. Patent Application Serial Number 7-191,067, "Method for Treating Autoimmune Diseases Using Succinylacetone". The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments, and other materials relating to the proposed license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 88-15750 Filed 7-13-88; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Non-Authorization To Export Textile Products from Thailand

July 8, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Brian Fennessy, Commodity Industry Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-3400.

SUMMARY INFORMATION: The Government of Thailand has notified the U.S. Government that it believes that World-Wide Export-Import (Thailand) Co. Ltd., 558 Rama 4 Road, Bangkok, Thailand, has sent shipments of textiles to the United States using fraudulent textile visas. The Thai Government asserts that it has not authorized the exportation of textiles from this firm to the United States. For that reason, and at the request of the Thai Government, the U.S. Customs Service will treat visas from World-Wide Export-Import (Thailand) Co. Ltd. as invalid.

Any persons holding textile visas for goods produced by this company should contact the Royal Thai Embassy at the following address: Dumrong Indharameesup, Commercial Counselor, Royal Thai Embassy, 1990 M Street NW., Suite 380, Washington, DC 20036, (202) 467-6790.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textiles and Apparel.

[FR Doc. 88-15847 Filed 7-13-88; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Commission on Base Realignment and Closure; Meeting

ACTION: Notice of business meeting and public hearing.

SUMMARY: The Defense Secretary's Commission on Base Realignment and Closure will hold a business meeting at 9:00 a.m., July 28, 1988 in the Dirksen Senate Office Building, Room 138. This will immediately be followed by a hearing to take public testimony on environmental issues associated with realignments and closures.

For futher information, please contact: Russel Milnes, (202) 653–0180, address: Defense Secretary's Commission on Base Realignment and Closure, 1825 K Street NW., Suite 310, Washington, DC 20006.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 11, 1988.

[FR Doc. 88–15879 Filed 7–13–88; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force To Review the Strategic Force Modernization Program

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force To Review the Strategic Force Modernization Program will meet in closed session on August 30–31, 1988 at TRW Inc., Merrifield, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will examine strategic force modernization issues within the context of evolving Soviet threat capabilities, potential strategic arms control restraints, and an increasingly austere fiscal environment.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Linda M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

July 11, 1988.

[FR Doc. 88–15881 Filed 7–13–88; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on B–1B Defensive Avionics

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on B–1B Defensive Avionics will meet in closed session on August 2, 1988 at Eaton, AIL Division, Deer Park, New York.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will evaluate the status of the Air Force B–1B Defensive Avionics Program.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 11, 1988.

[FR Doc. 88–15880 Filed 7–13–88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

July 6, 1988.

The USAF Scientific Advisory Board panel on a Software Center of Excellence will meet on 8 August 1988, from 1:30 p.m. to 5:00 p.m., and on 9 August 1988, from 8:00 a.m. to 4:00 p.m. at the Standard Systems Center Headquarters, Building 888, Gunter AFS, Alabama.

The purpose of this meeting is to review the plans of the Air Force Communications Command to establish a Software Center of Excellence at the Standard Systems Center.

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) 697–4811.

Patsy J. Conner,

Air Force Federal Register, Liaison Officer.

[FR Doc. 88–15752 Filed 7–13–88; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meetings: August 3, 4, and 5, 1988.

Time of Meetings: 0800–1700 hours, each day.

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board Ad Hoc Subgroup for Tactical Applications of Directed Energy Weapons (DEW) will meet for the purpose of further drafting and refining an interim report. This meeting will be closed to the public in accordance with section 552(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88–15754 Filed 7–13–88; 8:45 am]

BILLING CODE 3701-08-M

DEPARTMENT OF EDUCATION

[CFDA Nos. 84.200, 84.202, and 84.204]

Technical Assistance Workshop for the Graduate Assistance in Areas of National Need Program

AGENCY: Department of Education.

ACTION: Notice of Technical Assistance Workshop for the Graduate Assistance in Areas of National Need Programs, Grants to Institutions to Encourage Minority Participation in Graduate Education Program, and the School, College, and University Partnerships Program.

Purpose: The Secretary of Education will conduct a technical assistance workshop to assist applicants under the Graduate Assistance in Areas of National Need Program, Grants to Institutions to Encourage Minority Participation in Graduate Education Program, and the School, College, and University Partnerships Program. This workshop will be conducted by representatives of the Office of Higher Education Program Services.

DATES: The Technical Assistance workshop is scheduled to be held on Ju.y 25, 1988 at the GSA Regional Office Building, Auditorium (1st floor), 7th and D Streets, SW., Washington DC.

The following time schedule will be used:

10:00 a.m.—Graduate Assistance in Areas of National Need Program
1:00 p.m.—School, College, and University Partnerships Program
2:30 p.m.—Grants to Institutions to Encourage Minority Participation in Graduate Edcucation Program

For those persons who cannot attend the workshop, information can be obtained by calling the contact person or by referring to the **Federal Register** notice listed below.

"Notice Inviting Applications for New Awards Under the Graduate Assistance in Areas of National Need Program for Fiscal Year 1988", published in 53 FR 25470 on Wednesday, July 6, 1988.

"Notice Inviting Applications for New Awards Under the Grants to Institutions to Encourage Minority Participation in Graduate Education Program for Fiscal Year 1988", published in 53 FR 25653 on Friday, July 8, 1988.

"Notice Inviting Applications for New Awards Under the School, College, and University Partnerships Program for Fiscal Year 1988", published in 53 FR 25290 on Tuesday, July 5, 1988.

FOR FURTHER INFORMATION CONTACT: Mrs. Barbara Harvey, Office of Higher Education Program Services, Office of Postsecondary Education, on (202) 732–4863.

(Catalog of Federal Domestic Assistance Nos. 84.200, Graduate Assistance in Areas of National Need Programs; 84.202, Grants to Institutions to Encourage Minority Participation in Graduate Education Program; 84.204, School, College, and University Partnerships Program)

Dated: July 11, 1988.

Kenneth D. Whitehead,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 88–15948 Filed 7–13–88; 8:45 am]

BILLING CODE 4000–01–M

Office of Postsecondary Education

PLUS and Supplemental Loans for Students Programs

AGENCY: Department of Education.

ACTION: Notice of SLS and PLUS interest rate for the period July 1, 1988, through June 30, 1989.

The Assistant Secretary for Postsecondary Education announces the interest rate for variable rate Supplemental Loans for Students (SLS) and PLUS loans to be 10.45 percent for the period July 1, 1988, through June 30, 1989. The interest rate for these loans is provided under section 427A(c) of the Higher Education Act of 1965 (the Act), as amended (20 U.S.C. 1077a(c)).

Section 427A(c) of the Act provides that a variable interest rate applies to new SLS and PLUS loans disbursed on or after July 1, 1988, existing SLS and PLUS loans made at a variable interest rate (currently 10.27 percent), and SLS and PLUS loans made prior to July 1, 1987 that are refinanced at a variable rate. The variable rate applies for each 12-month period beginning July 1 and ending June 30. The rate is equal to the bond equivalent rate of the 52-week Treasury bills auctioned at the final auction held before the June 1 preceding that 12-month period plus 3.25 percent.

Pursuant to section 427A(c) of the Act, as amended, the Assistant Secretary has determined the interest rate for variable rate PLUS and SLS loans for the period July 1, 1988 through June 30, 1989 in the following manner:

Step 1. By determining the bond equivalent rate of the 52-week Treasury bills auctioned at the final auction prior to June 1, 1988 (7.20 percent); and

Step 2. By adding 3.25 percent to that average.

FOR FURTHER INFORMATION CONTACT: Ralph B. Madden, Program Analyst, Division of Policy and Program Development, Department of Education on (202) 732–4242.

(20 U.S.C. 1077a(c))

Dated: June 24, 1988.

Kenneth D. Whitehead,

Acting Assistant Secretary for Postsecondary Education.

(Catalog of Federal Domestic Assistance No. 94.032, Guaranteed Student Loan Program and PLUS Program)

[FR Doc. 88–15844 Filed 7–13–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Atomic Energy Agreements; Proposed Subsequent Arrangements With Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above-mentioned agreement involve approval of the following sales: Contract Number S–JA–387, for the sale of 30 kilograms of natural uranium metal to the Toshiba Corporation, Japan, for use in isotope separation experiments. U.S. Nuclear Regulatory license XUO 8656 has been issued for export of this material. Contract Number S–JA–388, for the sale of 5 kilograms of natural uranium metal to the Tokahu University, Japan, for use in basic research.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

Date: July 7, 1988.

For the Department of Energy.

David B. Waller,

Assistant Secretary of Energy, International Affairs and Energy Emergencies.

[FR Doc. 88–15794 Filed 7–13–88; 8:45 am]

BILLING CODE 6450–01–M

Atomic Energy Agreements; Proposed Subsequent Arrangement With Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale:

Contract Number S–JA–389 for the sale of 10 kilograms of natural uranium mental for use by the Nippon Atomic Industry Group, Japan, for use in investigations to clarify chemical and physical properties in various circumstances such as in toxic chemicals at high temperatures.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Date: July 7, 1988.

For the Department of Energy.

David B. Waller,

Assistant Secretary of Energy, International Affairs and Energy Emergencies.

[FR Doc. 88-15795 Filed 7-13-88; 8:45 am]

BILLING CODE 5450-01-M

Federal Energy Regulatory Commission

[Project No. 8612-000; Project No. 9967-000]

George Arkoosh, Shorock Hydro, Inc.; Availability of Environmental Assessment

July 11, 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 competing applications for minor license for the proposed Geo-Bon No. 1 and Shoshone Hydroelectric Projects and has prepared an Environmental Assessment (EA) for the proposed projects. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed projects and has concluded that approval of either 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. 88-15792 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6641-003]

Smithland Hydroelectric Partnerships; Availability of Environmental Assessment

July 11, 1988.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commisison's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license for the proposed Smithland Project and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative 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. 88-15791 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-528-000, et al.]

Panhandle Eastern Pipe Line Co., et al.; Natural gas certificate filings

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipe Line Co.

[Docket No. CP88-528-000]

July 6, 1988.

Take notice that on June 27, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas, 77251-1642, filed in Docket No. CP88-528-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Act (18 CFR 284.223) for authorization to transport natural gas for W.A. Sadler Resources, Inc. (Sadler), a marketer, under Panhandle's blanket certificate issued in Docket No. CP86-585-000 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 for public inspection.

Panhandle proposes to transport on an interruptible basis up to 2,500 Dt. per day on behalf of Sadler pursuant to a transportation agreement dated May 1, 1988, between Panhandle and Sadler (Agreement). Panhandle would receive gas from various existing points of receipt on its system in Texas, Oklahoma, Kansas, Colorado, Wyoming, Illinois, Louisiana, offshore Texas, Offshore Louisiana and Canada and redeliver the subject gas, less fuel used and unaccounted for line loss to Central Illinois Public Service Company in Peoria and Pike Counties, Illinois, for purchase by various end users.

Panhandle further states that the estimated daily and estimated annual quantities would be 400 Dt. and 146,000 Dt., respectively. Service under § 284.223(a) commenced on May 2, 1988, as reported in Docket No ST88-3929.

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. Southern Natural Gas Company

[Docket No. CP88-473-000]

July 6, 1988.

Take notice that on June 16, 1988, Southern Natural Gas Company (Southern), P.O. Box 2563 Birmingham, Alabama 35202-2563, filed in Docket No. CP88-473-000 an application pursuant to section 7(c) of the Natural Gas Act for a blanket certificate of public convenience and necessity authorizing Southern to sell natural gas on an interruptible basis and to transport natural gas for direct interruptible sales, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern requests a blanket certificate of public convenience and necessity authorizing it to make interruptible sales for resale in interstate commerce to third parties, including other interstate pipelines, intrastate pipelines, local distribution companies, and marketers, brokers, and other resellers of natural gas supplies. Southern also requests authorization to transport natural gas in interstate commerce to effectuate interruptible direct sales to end-users. It is stated that all such interruptible sales would be made pursuant to the terms and conditions of Southern's proposed Rate Schedule IS-1 for sales customers who also purchase gas from Southern under its OCD rate schedules, and Rate Schedule IS-2 for sales to all other customers. It is indicated that only natural gas supplies in excess of the current and projected requirements of Southern's existing firm sales customers would be available for sale under these rate schedules.

Southern states that it proposes to charge a negotiated rate for sales under Rate Schedules IS-1 and IS-2 between a maximum and minimum rate. It is stated that under the IS-1 rate schedule the maximum rate for its interruptible purchases would equal Southern's OCD commodity rate in the zone in which delivery occurs, until the customer's total purchases from Southern exceed its contract demand. Southern states that once the customer's total purchases from Southern exceed its contract demand, the maximum rate for its interruptible purchases would equal Southern's 100 percent load factor OCD rate for the zone in which delivery occurs. It is indicated that under the IS-

2 rate schedule, the maximum rate for all sales would equal Southern's 100 percent load factor rate for the zone in which delivery occurs. Southern states that the minimum rate for sales under both the IS–1 and IS–2 rate schedules would equal Southern's actual weighted average cost of gas purchased in the month of delivery plus fuel, variable costs of delivery, GRI surcharge, and annual charge adjustments.

Southern states that it does not propose to construct any new facilities in connection with the implementation of Rate Schedule IS. Southern anticipates that all sales would be made by means of existing Southern facilities and transportation agreements that Southern has with other pipelines. It is stated that purchasers would be responsible for downstream transportation if any is required.

Southern states that there are no end-use restrictions applicable to gas purchased under the IS rate schedules and that accordingly, all of Southern's existing or new customers would have equal access to gas sold under the proposed rate schedules. It is further stated that the proposed sales would be interruptible and of lower priority than Southern's firm sales and firm transportation services to its traditional firm entitlement customers.

Southern states that in order to insure that sales made under Rate schedule IS would not generate amounts to be charged or returned to Southern's customers through future PGA charges, Southern would exclude from the computation of its Account No. 191 balance all volumes sold under Rate Schedules IS as well as the pro rata share of its total actual systemwide purchase gas cost incurred in connection with sales under Rate Schedules IS. Accordingly, Southern proposes to retain all revenues from sales under Rate Schedules IS.

Comment date: July 27, 1988, in accordance with Standard Paragraph F at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP88–516–000]

July 6, 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. CP88–516–000 an application pursuant to section 7(b) of Natural Gas Act requesting an order for permission and approval to partially abandon transportation services for Sea Robin Pipeline Company (Sea Robin) related to two transportation agreements dated April 10, 1979, all more fully set forth in the application which is on file with the Commission and open to public inspection.

United States that it transports gas for Sea Robin through its capacity in Stingray Pipeline Company (Stingray) pursuant to two transportation agreements on file with the Commission as United's Rate Schedules X–74 and X–75. United asserts that Sea Robin has, pursuant to the provisions of the transportation agreements, requested that its contract demand be reduced from 4,700 Mcf per day to 1,000 Mcf per day in Rate Schedule X–74 and from 56,100 Mcf per day to 600 Mcf per day in Rate Schedule X–74.

United and Sea Robin have executed amendments each dated May 10, 1988 to the Rate Schedules which would provide for the proposed change, it is stated.

Comment date: July 27, 1988, in accordance with Standard Paragraph F at the end of this notice.

4. United Gas Pipeline Company

[Docket No. CP88–520–000]

July 6, 1988.

Take notice that on June 24, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251 filed in Docket No. CP88–520–000 a request pursuant to §§ 157.205 and 157.211(b) of the Regulations under the Natural Gas Act for authorization to construct and operate a sales tap under the blanket certificate issued in Docket No. CP82–430–000 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 install one-inch tap on its existing 18-inch Sterlington-Jackson Main Line in Hinds County, Mississippi. The proposed tap would enable United to supply Mississippi Valley Gas Company (Mississippi Valley), a local distribution company, with about 60 Mcf/d for resale for commercial use at a egg laying and processing plant, it is stated. United explains that Mississippi would pay for all costs resulting from the tap installation. United further explains that the new sales tap would not result in an increase on Mississippi Valley's aggregate base requirements or contractual MDQ of 118,542 Mcf per day.

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. Trunkline Gas Company

[Docket No. CP88–524–000]

July 6, 1988.

Take notice that on June 27, 1988, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642 filed in Docket No. CP88–524–000 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. CP86–586–000 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.

Trunkline proposes to transport natural gas for Exxon Corporation (Exxon), a producer, pursuant to a transportation agreement dated January 30, 1988. Trunkline explains that service commenced May 1, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88–3923–000. Trunkline further explains that the peak day quantity would be 40,000 dekatherms, the average daily quantity would be 1,000 dekatherms, and the annual quantity would be 365,000 dekatherms. Trunkline explains that it would receive natural gas for Exxon's account at points of receipt in South Timbalier Area blocks 171, 165, and 170, Offshore Louisiana and would redeliver natural gas for Exxon's account to Columbia Gulf Transmission Company at Centerville, St. Mary Parish, Louisiana. Trunkline indicates that the natural gas to be transported is for the ultimate consumption by Humble Gas System, a local distribution company.

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

6. Trunkline Gas Company

[Docket No. CP88–526–000]

July 6, 1988.

Take notice that on June 27, 1988, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642 filed in Docket No. CP88–526–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Exxon Corporation (Exxon), a producer, under Trunkline's blanket certificate issued in Docket No. CP86–586–000 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.

Specifically, Trunkline proposes to transport up to 50,000 dt. per day on behalf of Exxon pursuant to a transportation agreement dated May 20, 1988. It is estimated that the average daily quantity and the annual quantity of gas to be transported would be 1,000 dt. and 365,000 dt., respectively. It is

stated that the transportation agreement provides for Trunkline to receive gas from various existing points of receipt on its system from Offshore Louisiana and redeliver the gas, less fuel used and unaccounted for line loss, to Texas Eastern Transmission Corporation, (TETCO), in Beauregard Parish, Louisiana. Trunkline advises that the subject gas would be purchased by Connecticut Power & Light Company. Finally, Trunkline states that the transportation service commenced on May 25, 1988 under § 284.223(a), as reported in Docket No. ST88–3922.

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

7. Granite State Gas Transmission Inc.

[Docket No. CP88–521–000]

July 6, 1988.

Take notice that on June 27, 1988, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, filed in Docket No. CP–88–521–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to add a new delivery point in Scarborough, Maine to its affiliated distributor, Northern Utilities, Inc. (Northern) under the certificate issued in Docket No. CP–82–515–000 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.

Granite states that it will install a new delivery point in the existing right-of-way at the intersection of Eastern Road and Black Point Road in Scarborough at an estimated cost of $14,820 to serve a new customer of Northern. Granite also states that it will be reimbursed by Northern for the cost of the new delivery point.

Granite further states that the total volumes which it is authorized to deliver to Northern after approval of this request will not exceed the volumes authorized prior to approval. It is also stated that the construction of the new delivery point is not prohibited by Granite State's existing tariff pursuant to which sales are made to Northern and deliveries through the new delivery point will be made without detriment or disadvantage to Granite State's other customer requirements nor will any abandonment of service result from approval of this request.

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

8. Trunkline Gas Company

[Docket No. CP88–525–000]

July 6, 1988.

Take notice that on June 27, 1988, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP88–525–000 a request pursuant to § 157.205 of the Commission's Regulations under the National Gas Act (18 CFR 157.205) for authorization to provide a transportation service for Unicorp Energy, Inc. (Unicorp), a marketer, under the certificate issued in Docket No. CP86–586–000 on April 30, 1987, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

Trunkline states that pursuant to a transportation agreement dated April 26, 1988, as amended June 3, 1988, it proposes to transport up to 100,000 dekatherms per day equivalent of natural gas on an interruptible basis for Unicorp from points of receipt listed in Exhibit "A" of the agreement to redelivery points also listed in Exhibit "A". The subject of transportation service would involve interconnections between Trunkline and various transporters. Trunkline states that it would receive the gas at various existing points on its system in Illinois, Louisiana, Offshore Louisiana, Tennessee and Texas, and that it would transport and redeliver the gas, less fuel used and unaccounted for line loss, to (1) Consumers Power Company in Elkhart, Indiana, and (2) Panhandle Eastern Pipe Line Company in Douglas County, Illinois, for various local distribution companies and end users. It is stated that the transportation charge for the proposed service is based upon Trunkline's currently effective Rate Schedule PT.

Trunkline further states that the average daily and annual quantities would be equivalent to 40,000 dekatherms and 14,600,000 dekatherms, respectively. Trunkline advises that service under § 284.233(a) commenced May 6, 1988, as reported in Docket No. ST88–3920.

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

9. Trunkline Gas Company

[Docket No. CP88–527–000]

July 6, 1988.

Take notice that on June 27, 1988, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP88–527–000 a request pursuant to § 157.205 of the Commission's Regulations under the National Gas Act (18 CFR 157.205) for authorization to provide a transportation service for Archer Daniels Midland Company (Archer), the shipper and end user, under the certificate issued in Docket No. CP86–586–000 on April 30, 1987, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

Trunkline states that pursuant to a transportation agreement dated April 12, 1988, it proposes to transport up to 250 dekatherms per day equivalent of natural gas on an interruptible basis for Archer from points of receipt listed in Exhibit "A" of the agreement to redelivery points also listed in Exhibit "A". The subject of transportation service would involve interconnections between Trunkline and various transporters. Trunkline states that it would receive the gas at various existing points on its system in Illinois, Louisiana, Offshore Louisiana, Tennessee and Texas, and that it would transport and redeliver the gas, less fuel used and unaccounted for line loss, to Illinois Power Company in Champaign County, Illinois, for ultimate use by Archer. It is stated that the transportation charge for the proposed service is based upon Trunkline's currently effective Rate Schedule PT.

Trunkline further states that the average daily and annual quantities would be equivalent to 35 dekatherms and 12,775 dekatherms, respectively. Trunkline advises that service under § 284.233(a) commenced May 1, 1988, as reported in Docket No. ST88–3927.

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

10. K N Energy, Inc.

[Docket No. CP88–533–000]

July 6, 1988.

Take notice that on June 28, 1988, K N Energy, Inc. (K N), P.O. Box 15265 Lakewood, Colorado 80215, filed in Docket No. CP88–533–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon metering stations and appurtenant facilities for and service to certain direct sales customers under the authorization issued in Docket No. CP83–140–000, *et al.*, 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.

It is stated that three customers to whom K N makes retail sales have

ceased taking natural gas and have requested that K N permanently terminate natural gas service. K N, therefore, proposes to abandon, by removal, the metering stations and appurtenant facilities which were installed to deliver natural gas to the following direct sales customers:

Name	Docket No.
Atwood Cheese Company (Atwood, KS).	CP70-228
Excel Corporation (Cozad, NE)	CP82-57
Sargent Alfalfa Products, Inc. (Sargent, NE).	CP62-215

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

11. United Gas Pipeline Company

[Docket No. CP88-534-000]

July 6, 1988.

Take notice that on June 28, 1988, United Gas Pipeline Company (United), P.O. Box 1487, Houston, Texas 77251, filed in Docket No. CP88-534-000 a request pursuant to § 284.223 of the Regulations under the National 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 Chevron U.S.A. Inc. (Chevron). United explains that service commenced May 1, 1988 under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88-4237. United explains that the peak day quantity would be 20,600 dekatherms, the average daily quantity would be 20,600 dekatherms, and that the annual quantity would be 7,519,000 dekatherms. United explains that it would receive natural gas for Chevron's account at points of receipt in Mississippi. United states that it would redeliver the gas for Chevron's account at existing delivery points in Mississippi.

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

12. Trunkline Gas Company

[Docket No. CP88-523-000]

July 6, 1988.

Take notice that on June 27, 1988, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP88-523-000 a request pursuant to § 157.205 of the Commission's Regulations under the National Gas Act (18 CFR 157.205) for authorization to provide a transportation service for Loutex Energy, Inc. (Loutex), a marketer, under the certificate issued in Docket No. CP86-586-000 on April 30, 1987, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

Trunkline states that pursuant to a transportation agreement dated May 1, 1988, it proposes to transport up to 65,000 dekatherms per day equivalent of natural gas on an interruptible basis for Loutex from points of receipt listed in Exhibit "A" of the agreement to redelivery points also listed in Exhibit "A". The subject of transportation service would involve interconnections between Trunkline and various transporters. Trunkline states that it would receive the gas at various existing points on its system in Illinois, Louisiana, Offshore Louisiana, Tennessee and Texas, and that it would transport and redeliver the gas, less fuel used and unaccounted for line loss, to (1) Exxon Corporation in St. Mary Parish, Louisiana, (2) Bridgeline Gas Distribution Company in St. Mary Parish, Louisiana, (3) Monterey Pipeline Company in St. Mary Parish, Louisiana, (4) Southern Natural Gas Company in St. Mary Parish, Louisiana, and (5) United Gas Pipe Line Company in St. Mary Parish, Louisiana, for various local distribution companies. It is stated that the transportation charge for the proposed service is based upon Trunkline's currently effective Rate Schedule PT.

Trunkline further states that the average daily and annual quantities would be equivalent to 30,000 dekatherms and 10,950,000 dekatherms, respectively. Trunkline advises that service under § 284.233(a) commenced May 3, 1988, as reported in Docket No. ST88-3919.

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

13. Algonquin Gas Transmission Company

[Docket No. CP88-510-000]

July 6, 1988.

Take notice that on June 24, 1988, Algonquin Gas Transmission Company, 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP88-510-000 a request pursuant to § 157.205 of the Regulations under the National Gas Act (18 CFR 157.205) for authorization to construct and operate facilities in connection with establishing a new delivery point for Boston Gas Company (Boston Gas), under the certificate issued in Docket No. CP87-317-000 on April 30, 1987, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

Algonquin states that Boston Gas has requested and Algonquin has agreed to construct a new measuring and regulating station on land owned by Polaroid Corporation (Polaroid) adjacent to Algonquin's existing pipleline facilities in Waltham, Massachusetts. It is stated that Boston Gas would install connecting facilities between the proposed station and Polaroid, the ultimate end user. It is also stated that Boston Gas would pay all costs associated with the project including reimbursement to Algonquin for out of pocket expenses incurred. It is estimated that the total cost of the new station would be $321,000.

Algonquin states that it does not propose to increase the maximum daily obligation under firm service agreements between Algonquin and Boston Gas. Algonquin states that it would designate the proposed delivery point on its service agreements with Boston Gas with zero delivery obligation. Accordingly, Algonquin states that its peak day or annual commitments under firm service agreements would not be affected by construction of the new station.

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

14. Natural Gas Pipeline Company of America

[Docket No. CP88-531-000]

July 6, 1988.

Take notice that on June 28, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP88-531-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Transco Energy Marketing Company (TEMCO), a marketer of natural gas, under Natural's 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 application that is on file with the Commission and open to public inspection.

Natural proposes to transport on an interruptible basis up to 300,000 MMBtu of gas on a peak day (and any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS) and 36,500,000 MMBtu on

an annual basis for TEMCO. It is stated that Natural would receive the gas for TEMCO's account at various existing receipt points in Texas, offshore Texas, Louisiana and Kansas, and would deliver equivalent amounts of gas in Oklahoma, Illinois, Louisiana, Iowa, Arkansas and Kansas. It is asserted that the transportation service would be effected using existing facilities and would not require any construction of additional facilities. It is explained that the service commenced May 1, 1988, under the automatic authorization provisions of § 284.223 of the Commission's Regulations.

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

15. Williams Natural Gas Company

[Docket No. CP88-102-001]

July 7, 1988.

Take notice that on June 20, 1988, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP88-102-001 an amendment to its application filed in Docket No. CP88-102-000 pursuant to section 7(c) of the Natural Gas Act so as to reflect a sale of certain facilities as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In its original application, WNG proposed to abandon by reclaim the Chase Central compressor station and appurtenant facilities. Following negotiation, WNG and Vail Energy corporation (Vail) doing business as EnMark Gas Gathering, have modified the original agreement, as explained. WNG now proposes to sell the Chase Central station to Vail for $19,000. The 250 hp compressor unit would be reclaimed to stock, it is stated. WNG also indicates that Vail would purchase no facilities at the Peckham delivery point.

WNG further states that total cost to abandon the facilities is estimated to be $34,270 with a salvage value of $69,622.

Comment date: July 28, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

16. Southwest Gas Corporation

[Docket No. CP88-530-000]

July 7, 1988.

Take notice that on June 28, 1988, Southwest Gas Corporation (Applicant), P.O. Box 98510, Las Vegas, Nevada 89193, filed in Docket No. CP88-530-000 an application pursuant to section 7 of the Natural Gas Act and Part 157 of the Commission's Regulations under the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline, pressure regulating, and measurement facilities along Applicant's northern Nevada jurisdictional transmission system, 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 purpose of the proposed facilities is to enhance the design deliverability of certain segments of Applicant's system so as to enable Applicant to meet both the existing and projected design day requirements of Applicant's Priority 1 and 2 customers for natural gas through the 1990-91 winter season. Applicant also states that it has recently conducted an evaluation of the daily design capacity of the existing facilities along its northern Nevada transmission system, and gas determined that, due to high priority customer load growth and deterioration of some facilities, Applicant needs to reinforce and augment the design delivery capability of its system along certain segments. Applicant asserts that the estimated design day requirements for natural gas by its customers, beginning with the upcoming 1988-89 winter heating season, exceed the daily design capacity of the existing facilities to deliver such gas.

Specifically, Applicant proposes to: (1) Construct and operate 15.5 miles of 16" O.D. replacement pipeline along the portion of its northern Nevada system referred to as the Carson lateral in Washoe, Storey and Lyon Counties, Nevada; (2) construct and operate 1.7 miles of 10.75" O.D. loop pipeline along the Carson lateral in Carson City County, Nevada; (3) upgrade, and in some instances relocate, existing pressure regulating station and measurement facilities at a total of five locations on the Carson, Reno, South Tahoe, and North Tahoe laterals in Washoe, Lyon, and Douglas Counties, Nevada; and (4) install new pressure regulating station facilities at a total of three locations on the Reno and Carson laterals in Washoe and Lyon Counties, Nevada. Applicant estimates the total cost of the proposed construction activities to be $4,940,000, which would be financed from treasury funds.

Applicant indicates that the facilities proposed in (1) above would replace two existing segments of 12¾" pipeline and would enable Applicant to increase the maximum allowable operating pressure on those segments, thereby increasing design capacity. Applicant indicates it intends to abandon the two pipeline segments due to deterioration of the coating on the pipe and the questionable ability of the line to permit an increase in the maximum available operating pressure equivalent to that of the proposed new line. Applicant indicates that it believes that the abandonment of the existing pipeline segments does not require abandonment authorization under section 7(b) of the Natural Gas Act inasmuch as the facilities have physically deteriorated and are being replaced by the new pipeline and no reduction or abandonment of service would result. However, Applicant requests that the Commission grant any abandonment authorization as deemed necessary.

Applicant requests expeditious approval of its application in order to ensure that the necessary facilities can be constructed and placed into operation to meet design day requirements for the upcoming winter heating season.

Applicant further states that in Docket No. CP87-309-000, Applicant filed a joint application, along with Applicant's wholly-owned subsidiary, Paiute Pipeline Company (Paiute), by which Applicant proposes to transfer to Paiute all of Applicant's northern Nevada system facilities and operations that are subject to the Commission's jurisdiction under the Natural Gas Act. Applicant asserts that by order issued May 17, 1988, the Commission granted the necessary authorization to permit the transfer to Paiute of Applicant's northern Nevada jurisdictional facilities and operations. Applicant asserts that Paiute has accepted the certificate to acquire and operate the facilities, and that Applicant and Paiute are presently engaged in completing the arrangements to effectuate the transfer such that Paiute will commence operations no later than August 1, 1988. It is indicated that if Paiute commences operations prior to the issuance of the certificate requested in the instant application, Paiute would be substituted as the applicant in this proceeding. It is further indicated that if the certificate authority requested in the application is issued prior to the date that Paiute commences operations, Applicant believes that the certificate authorization issued in the instant proceeding, consistent with the authorization in Docket No. CP87-309-000, would be subsequently transferred to Paiute upon Paiute's commencement of operations.

Comment date: July 28, 1988, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment

date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natrual 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 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 requried, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15632 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-535-000, et al.]

United Gas Pipe Line Co., et al.; Natural Gas Certificate Filings

July 8, 1988.

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Company

[Docket No. CP88-535-000]

Take notice that on June 28, 1988, United Gas Pipe Line Company, (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP88-535-000 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 Texas Gas Marketing Inc. (Texaco) 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 May 3, 1988, it proposes to transport natural gas for Texaco, from one point of receipt located offshore Louisiana, to a delivery point on United's system offshore Louisiana.

United further states that the peak day quantities would be 15,450 MMBtu, the average daily quantities would be 15,450 MMBtu and that the annual quantities would be 5,639,250 MMBtu. It is stated, service under § 284.223(a) commenced May 10, 1988, as reported in Docket No. ST88-4273 (filed June 17, 1988).

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. National Fuel Gas Supply Corporation

[Docket No. CP88-508-000]

Take notice that on June 24, 1988, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP88-508-000 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 sales tap facilities to attach new residential customers of National Fuel Gas Distribution Corporation (Distribution) and to add, delete and relocate delivery points to Distribution under the certificate issued in Docket No. CP83-4-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

National proposes to construct sales tap facilities in Clarion, Armstrong, McKean, Jefferson, and Erie Counties, Pennsylvania, in order to serve additional residential customers of Distribution. National also proposes the addition, deletion and relocation of delivery points with respect to Distribution in Clearfield and Mercer Counties, Pennsylvania, and in Allegheny County, New York. National states the proposed deliveries will have minimal impact on its peak and annual deliveries.

Comment date: August 22, 1988, in accordance with Standard Paragraph G at the end of this notice.

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 175.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15784 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8517-004, et al.]

Hydroelectric Applications, Prodek, Inc., et al.; Applications

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. *Type of Application*: Surrender of License.

b. *Project No.*: 8517-004.

c. *Date Filed*: May 23, 1988.

d. *Applicant*: Prodek, Inc.

e. *Name of Project*: Jackson Gulch Project.

f. *Location*: On the West Mancos River near the town of Mancos, in Montezuma County, Colorado.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact*: Carole A. Durnal, Prodek, Inc., 2431 E. 61st Street,

Suite 318, Tulsa, OK 74136, (918) 749–7749.

i. *FERC Contact*: Thomas Dean, (202) 376–9562.

j. *Comment Date*: August 12, 1988.

k. *Description of Project*: The proposed project would have utilized the Bureau of Reclamations' Jackson Gulch dam and reservoir and would have consisted of: (1) powerhouse No. 1 containing one 175 kW generating unit; (2) a 24-inch-diameter, 750-foot-long penstock leading to; (3) powerhouse No. 2 containing one 200 kW generating unit and powerhouse No. 3 containing one 450 kW generating unit; (4) two 7.2-kV buried transmission lines; and (5) appurtenant facilities.

The project would have had a total installed capacity of 825 kW. The applicant estimated the average annual energy generation to be 1,350,000 kWh.

The applicant states that the project is infeasible at this time due to: (1) limited early spring releases from the reservoir; (2) an altered method for calculating capacity payments for category 3 contracts under the Public Utility Regulatory Policies Act; and (3) increase equipment costs due to the foreign exchange rate.

l. *Purpose of Project*: Applicant intended to sell the power generated from the proposed facility.

m. *This notice also consists of the following standard paragraphs*: B and C.

2 a. *Type of Application*: Minor License.

b. *Project No.*: 10502–000.

c. *Date Filed*: November 6, 1987.

d. *Applicant*: Garkane Power Association, Inc.

e. *Name of Project*: Lower Boulder Creek.

f. *Location*: On Boulder Creek within the Dixie National Forest in T33S, R4E, near Boulder in Garfield County, Utah.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 781(a)–825(r).

h. *Applicant Contact*: Mr. Glen P. Willardson, P.O. Box 790, Richfield, UT 84701, (801) 896–5403.

i. *FERC Contact*: Julie Bernt, (202) 376–1936.

j. *Comment Date*: September 6, 1988.

k. *Description of Project*: The proposed project would consist of: (1) a 2,981-foot-long, 30-inch-diameter steel pipeline extending from an open canal which transports water from the tailrace of the existing upstream Boulder Creek Project (Project No. 2219); (2) a prefabricated intake structure; (3) a powerhouse at elevation 7,400 feet msl containing two generating units each with a rated capacity of 450 kW; and (4) a 5,280-foot-long transmission line. The average annual energy production is estimated to be 5,513 MWh and the estimated cost of the project is $1,210,500.

l. *Purpose of Project*: The power produced will be consumed by the applicant or sold to local power companies.

m. *This notice also consists of the following standard paragraphs*: A3, A9, B, C and D1.

3. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10566–000.

c. *Date filed:* March 31, 1988.

d. *Applicant:* Southern Energy, Inc.

e. *Name of Project:* Lutak Inlet.

f. *Location:* On an unnamed stream near the town of Haines in the First Judicial District, Juneau, Alaska, T.30S., R.59E., Sections 9, 10, and 16, Cooper River Meridian.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John Floreske, Jr., P.O. Box 34117, Juneau, AK 99803, (907) 789–7544.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely, (202) 376–9821.

j. *Comment Date:* September 6, 1988.

k. *Description of Project:* The proposed run-of-river project would consist of: (1) A 4.5-foot-high screened intake structure at elevation 320 feet; (2) an 18-inch-diameter, 2,047-foot-long buried penstock with an 18-inch butterfly valve; (3) a powerhouse containing a single turbine-generator unit with a rated capacity of 150 kW; (4) a 3-foot-wide, 3-foot-high tailrace; (5) a 40-foot-long, 12.47-kV transmission line tying into an existing Haines Light and Power distribution system.

The applicant estimates the cost for conducting these studies under the preliminary permit at $30,000.

l. *Purpose of Project:* Power produced from the project will be sold to Haines Light and Power.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

4. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10567–000.

c. *Date filed:* April 4, 1988.

d. *Applicant:* Barrish and Sorenson Hydroelectric Company.

e. *Name of Project:* Cispus River No. 4.

f. *Location:* On Cispus River, in Lewis County, Washington, T11N, R6E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Steve P. Barrish, Barrish and Sorenson Hydroelectric Co., 1004 SE 97th Avenue, Vancouver, WA 98664, (206) 254–2423.

i. *FERC Contact:* William Roy-Harrison, (202) 376–9830.

j. *Comment Date:* September 6, 1988.

k. *Description of Project:* The proposed project consists of: (1) A 14-foot-high, 250-foot-long diversion structure at elevation 980 feet msl; (2) a 12-foot-deep, 90-foot-wide, 11,400-foot-long canal; (3) parallel 12-foot-diameter, 600-foot-long penstocks; (4) a powerhouse containing a generating unit with a rated capacity of 15.3 MW; (5) a 1.9-mile-long, 69-kV transmission line tying into a new Lewis County PUD substation; and (6) a tailrace putting water back into the Cispus River. The applicant estimates an 100,384 MWh average annual energy production. The approximate cost of the studies under the permit would be $35,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C and D2.

5 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10568–000.

c. *Date filed:* April 4, 1988.

d. *Applicant:* Barrish and Sorenson Hydroelectric Company.

e. *Name of Project:* Cispus River No. 3.

f. *Location:* Partially within Gifford Pinchot National Forest, on Cispus River in Lewis County, Washington, T11N, R7E.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Steve P. Barrish, Barrish and Sorenson Hydroelectric Company, 1004 SE 97th Avenue, Vancouver, WA 98664, (206) 254–2423.

i. *FERC Contact:* William Roy-Harrison, (202) 376–9830.

j. *Comment Date:* September 6, 1988.

k. *Description of Project:* The proposed project consists of: (1) An 8-foot-high, 200-foot-long diversion structure, at elevation 1,180 feet msl; (2) a 10-foot-deep, 75-foot-wide, 30,500-foot-long canal; (3) parallel 10-foot-diameter, 600-foot-long penstocks; (4) a powerhouse containing a generating unit with a rated capacity of 13.1 MW; (5) a 6.25-mile-long, 69-kV transmission line tying into a new Lewis County PUD substation; and (6) a tailrace putting water back into the Cispus River.

The applicant estimates an 85,882 MWh average annual energy production. The approximate cost of the studies under the permit would be $35,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C and D2.

6 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10569–000.

c. *Date filed:* April 4, 1988.

d. *Applicant:* Barrish and Sorenson Hydroelectric Company.

e. *Name of Project:* Greenhorn Creek.

f. *Location:* Partially within Gifford Pinchot National Forest, on Greenhorn Creek, Lewis County, Washington T11N, R7E.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Steve P. Barrish, Barrish and Sorenson Hydroelectric Company, 1004 SE 97th Avenue, Vancouver, WA 98664, (206) 254–2423.

i. *FERC Contact:* William Roy-Harrison, (202) 376–9830.

j. *Comment Date:* September 6, 1988.

k. *Description of Project:* The proposed project consist of: (1) A 6-foot-high, 75-foot-long diversion structure at elevation 2,480 feet msl; (2) a 42-inch-diameter, 14,500-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 4.6 MW; (4) a 10-mile-long, 69-kV transmission line tying into a new Lewis County PUD substation; and (5) a tailrace putting water back into Greenhorn Creek.

The applicant estimates a 30,370 MWh average annual energy production. The approximate cost of the studies under the permit would be $25,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C and D2.

7 a. *Type of Application: Preliminary Permit.*

b. *Project No.:* 10570–000.

c. *Date filed:* April 4, 1988.

b. *Applicant:* Barrish and Sorenson Hydroelectric Company.

e. *Name of Project:* Smith Creek.

f. *Location:* Partially within Gifford Pinchot National Forest, on Smith Creek in Lewis County, Washington. T12N, R9E and T13N, R9E.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Steve P. Barrish, Barrish and Sorenson Hydroelectric Company, 1004 SE 97th Avenue, Vancouver, WA 98664, (206) 254–2423.

i. *FERC Contact:* William Roy-Harrison, (202) 376–9830.

j. *Comment Date:* September 6, 1988.

k. *Description of Project:* The proposed project consist of: (1) A 6-foot-high, 100-foot-long diversion structure at elevation 2,720 feet msl; (2) a 54-inch-diameter, 20,500-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 10.4 MW; (4) a 350-foot-long, 69-kV transmission line connecting into the existing Lewis County PUD substation; and (5) a tailrace putting water back into Smith Creek.

The applicant estimates a 68,674 MWh average annual energy production. The approximate cost of the studies under the permit would be $30,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C and D2.

8 a. *Type of Application:* Preliminary Permit.

h. *Project No.:* 10571–000.

c. *Date filed:* April 4, 1988.

d. *Applicant:* Barrish and Sorenson Hydroelectric Company.

e. *Name of Project:* Silver Creek.

f. *Location:* Partially within Gifford Pinchot National Forest, on Silver Creek, in Lewis County, Washington T13N, R7E and T12N, R7E

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Steve P. Barrish, Barrish and Sorenson Hydroelectric Company, 1004 SE 97th Avenue, Vancouver, WA 98864, (206) 254–2423.

i. *FERC Contact:* William Roy-Harrison, (202) 376–9830.

j. *Comment Date:* September 6, 1988.

k. *Description of Project:* The proposed project consist of: (1) A 6-foot-high, 80-foot-long diversion structure at elevation 1,400 feet msl; (2) a 72-inch-diameter, 21,800-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 6.2 MW; (4) a 3,500-foot-long, 69-kV transmission line tying into the existing Lewis County PUD system; and (5) a tailrace putting water back into Silver Creek.

The applicant estimates a 41,916 MWh average annual energy production. The approximate cost of the studies under the permit would be $25,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C and D2.

9 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10578–000.

c. *Date filed:* April 18, 1988.

b. *Applicant:* PRODEK, INC.

e. *Name of Project:* Mildford Dam.

f. *Location:* On the Republican River near Junction City, Geary County, Kansas.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. Carole A. Durnal, 2431 East 61st St., Suite 318, Tulsa, OK 74136, (918) 749–7749.

i. *FERC Contact:* Charles T. Raabe, (202) 376–9778.

j. *Comment Date:* September 1, 1988.

k. *Description of Project:* The proposed project would utilize the U.S. Army Corps of Engineers' Milford Dam and Reservoir, and would consist of: (1) Two turbine/generator bulkheads to be installed in the intake tower, each bulkhead comprising 80 turbine/generator units having a capacity of 57-kW and 76–HP per unit, for a total installed capacity of 9, 120-kW; (2) an outdoor gantry crane; (3) a 15-foot-wide, 30-foot-long switchgear and control powerhouse; (4) a 200-foot-long, 34.5-kV underground transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 33 million kWh. Project power will be marketed to an established operating electric utility. Applicant estimates that the cost of the studies under the terms of the permit would be $60,000 to $90,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

10 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10616–000.

c. *Date filed:* June 9, 1988.

d. *Applicant:* Branch Associates.

e. *Name of Project:* 3rd Branch.

f. *Location:* On the Mohawk River, near the Village of Waterford and the City of Cohoes, Saratoga and Albany Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Matthew Lavenia, 234 Woodin Road, Clifton Park, NY 12065, (518) 371–5671.

i. *FERC Contact:* Michael Dees, (202) 376–9414.

j. *Comment Date:* September 1, 1988.

k. *Description of Project:* The proposed project would consist of: (1) A new 10 acre reservoir with a storage capacity of 80 acre-feet at a normal surface elevation of 27 feet msl; (2) a new concrete dam 200 feet long, ranging from two to five feet high; (3) a new powerplant 50 feet wide and 20 feet long housing two hydropower units each rated at 550-kW; (4) a new tailrace 50 feet wide, 200 feet long, with a maximum depth of 15 feet; (5) a new 13.8-kV transmission line 300 feet long; and (6) appurtenant facilities. The estimated annual energy production is 5.5 GWh. Project power would be sold to the Niagara Mohawk Power Corporation. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $21,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

11 a. *Type of Application:* Change in Land Rights.

b. *Project No.:* 2580–010.

c. *Date Filed:* May 2, 1988.

d. *Applicant:* Consumers Power Company.

e. *Name of Project:* Tippy Plant.

f. *Location:* Manistee River in Manistee County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. T.A. McNish, Secretary, Consumers Power Company, 212 West Michigan Avenue, Jackson, MI 49201.

i. *FERC Contact:* Mr. Donald Wilt, (202) 376–1762.

j. *Comment Date:* August 11, 1988.

k. *Description of Application:* Consumers Power Company, licensee for the Tippy Plant Project, seeks Commission authorization to dispose of 2 parcels of land currently located within the project boundary. Parcel 1, which is presently undeveloped and contains approximately 362 acres, would be transferred to Caberfae Skiing Company, Inc., which would later transfer the land to the United States Forest Service. Parcel 2, which contains approximately 24 acres surrounding the Stronach Dam, would be transferred to STS Consultants, LTD., for the purposes of hydroelectric development. (A copy of the application may be obtained by interested parties directly from the licensee).

l. *This notice also consists of the following standard paragraphs:* B, C, & D2.

12 a. *Type of Application:* Study Plan.

b. *Project No.:* 2680–006.

c. *Date Filed:* April 19, 1988.

d. *Applicant:* Consumers Power Corporation and Detroit Edison Power Corporation.

e. *Name of Project:* Ludington Pumped Storage Project.

f. *Location:* The eastern shore of Lake Michigan in the City of Ludington, Mason County, Michigan.

g. *Filed Pursuant to:* FERC Order Modifying a Mitigative Plan for Turbine Mortality, issued August 11, 1987.

h. *Applicant Contact:* Mr. William M. Lange, Assistant General Counsel, Consumers Power Corporation, 1016 16th Street, NW, Washington, DC 20036, (202) 293–5795.

i. *FERC Contact:* Lon Crow, (202) 376–1759.

j. *Comment Date:* August 15, 1988.

k. *Description of the Plan:* Consumers Power and Detroit Edison Power Corporations propose a study plan designed to determine measures that would reduce or minimize the impacts to fish resources associated with operation of the Ludington Pumped Storage Project.

l. This notice also consists of the following standard paragraphs: B, C.

13 a. *Type of Application:* Amendment of License.

b. *Project No.:* 6281–008.

c. *Date Filed:* May 17, 1988.

d. *Applicant:* Five Bears Hydro, Inc.

e. *Name of Project:* Five-Bears.

f. *Location:* Ward Creek, Plumas County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert L. Trieberg, Secretary, Five Bears Hydro, Inc., 13293 Lower Grass Valley Road, Suite 102, Nevada City, CA 95959.

i. *FERC Contact:* Mr. Robert Grieve, (202) 376–9063.

j. *Comment Date:* August 11, 1988.

k. *Description of Amendment of License:* Five Bears Hydro, Inc. (licensee) proposed to change the location of the diversion structure and a portion of the penstock by moving the diversion structure about 1600 feet upstream of where it was originally sited in the original license.

l. *This notice also consists of the following standard paragraphs:* B, C.

14 a. *Type of Application:* Declaration of Intention.

b. *Project No.:* EL87–1–000.

c. *Date Filed:* October 2, 1988.

d. *Applicant:* Dunn & McCarthy, Inc.

e. *Name of Project:* Dunn & McCarthy Project.

f. *Location:* Owasco Outlet, Cayuga County, New York.

g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* McNeill Watkins II, William J. Madden, Jr., Bishop, Liberman, Cook, Purcell, & Reynolds, 1200 Seventeenth Street, NW., Washington, DC 20036.

i. *FERC Contact:* Hank Ecton, (202) 376–9073.

j. *Comment Date:* August 18, 1988.

k. *Description of Project:* The proposed Dunn & McCarthy Project would consist of: (1) An existing 9.5-foot-high and 100-foot-long stone and masonry dam; (2) a reservoir with a surface area of 1.2 acres, a net storage capacity of 4.5 acre-feet m.s.l.; (3) an existing intake canal, 1,050 feet long; (4) an existing steel penstock with a diameter of 9.5 feet and a length of 140 feet; (5) an existing powerhouse containing a new generating unit with a capacity of 700 kilowatts; (6) an existing transmission line, 100 feet long; (7) an existing 30-foot-wide, 500-foot-long tailrace; and (8) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Purpose of Project:* To reinstall the original turbine-generator unit or one of similar capacity and sell the generated electricity to the local public utility (New York State Electric and Gas Corporation) or such other entity that can efficiently and economically utilize the power.

m. *This notice also consists of the following standard paragraphs:* B, C, and D2.

15 a. *Type of Application:* Change in Land Rights.

b. *Project No.:* 1889–012.

c. *Date Filed:* May 27, 1988.

d. *Applicant:* Western Massachusetts Electric Company.

e. *Name of Project:* Turners Falls.

f. *Location:* On the Connecticut River in Franklin County, Massachusetts; Windham County, Vermont; and Cheshire County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. R.A. Reckert, Western Massachusetts Electric Company, P.O. Box 270, Hartford, CT 06141–0270, (203) 665–5000.

i. *FERC Contact:* Mr. Donald Wilt, (202) 376–1762.

j. *Comment Date:* August 18, 1988.

k. *Description of Application:* Western Massachusetts Electric Company, licensee for the Turners Falls Project, seeks Commission authorization to convey certain interests in real property within the project boundary to Turners Falls Ltd. Partnership. The easements will allow for: (a) Construction of an overhead electric transmission line on project lands; (b) rights to install and use an access roadway along the licensees' power canal; and (c) rights for emergency access across the licensees' power canal by means of an existing bridge. (A copy of the application may be obtained by interested parties directly from the licensee).

l. *This notice also consists of the following standard paragraphs:* B, C, & D2.

16 a. *Type of Application:* Surrender of License.

b. *Project No.:* 8611–003.

c. *Date Filed:* June 16, 1988.

d. *Applicant:* John N. Webster.

e. *Name of Project:* Alton Dam Project

f. *Location:* On the Merrymeeting River in Belknap County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John N. Webster, P.O. Box 1073, Dover, NH 03820, (207) 384–5334.

i. *FERC Contact:* Steven H. Rossi, (202) 376–9814.

j. *Comment Date:* August 22, 1988.

k. *Description of Proposed Surrender:* The proposed project would have consisted of: (1) A 15-foot-high, 136-foot-long earth embankment and concrete gravity dam with; (2) 4-foot-high flashboards; (3) a reservoir with a normal water surface area of 500 acres and a storage capacity of 4,758 acre-feet at surface elevation 526.3 feet MSL; (4) a gate house located on the left abutment; (5) a 4-foot-diameter, 330-foot-long penstock; (6) a concrete and masonry powerhouse containing a generating unit with a capacity of 125 kW; (7) the 0.48-kV generator leads; (8) the 0.48/2.4-kV, 250-kVA transformer; (9) a 350-foot-long, 2.4-kV line; and (10) appurtenant facilities. The proposed project would have generated up to 600,000 kWh annually and would have been sold to the Public Service Company of New Hampshire.

The licensee states that due to its inability to obtain a power sales contract, the licensee wishes to surrender its license. No construction has started.

l. *This notice also consists of the following standard paragraphs:* B, C and D2.

17 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10615–000.

c. *Date filed:* June 7, 1988.

d. *Applicant:* Wolverine Power Supply Cooperative, Inc.

e. *Name of Project:* Tower and Kleber Hydro Project.

f. *Location:* On the Black River near Onaway, Cheboygan County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Raymond G. Towne, Wolverine Power Supply Cooperative, Inc., 1050 East Division, P.O. Box 369, Boyne City, MI 49712, (616) 582–6572.

i. *FERC Contact:* Ed Lee, (202) 376–9116.

j. *Comment Date:* September 16, 1988.

k. *Description of Project:* The existing run-of-river Tower and Kleber Project consists of two developments located at the Tower and Kleber Dams. The Tower Dam is about 7.1 miles upstream from the point of which the Black River flows into the Black Lake. Kleber Dam is 2.5 miles downstream from the Tower Dam.

The Tower Hydro Development consists of: (1) The Tower Dam which is 727-foot-long and 22-foot-high; (2) a 102-acre reservoir having a maximum storage capacity of 620 acre-feet at 722.1 feet msl; (3) a concrete powerhouse integral with the dam and housing two 280-kW generators for a total installed capacity of 560 KW and an average annual generation of 1,868 MWh; (4) a 150-foot-long, 69-KV transmission line; and (5) appurtenant facilities.

The Kleber Hydro Development consists of: (1) The Kleber Dam which is 535-foot-long and 40-foot-high; (2) a 295-acre reservoir having a maximum storage capacity of 3,000 acre-feet at 701.1 feet msl; (3) a concrete powerhouse located in the river channel and housing two 600–KW generator for a total installed capacity of 1,200 KW and an average annual generation of 5,630 MWh; (4) a 50-foot-long, 12.5–KV transmission line; and (5) appurtenant facilities. The applicant estimates the cost of the work to be performed under the preliminary permit would be $68,000.

l. *Purpose of Project:* The power produced is utilized by the applicant within its own distribution system.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original

and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426. An additional copy must be sent to Dean Shumway, Acting Director, Division of Project Review, Federal Energy Regulatory Commission, Room 203–RB, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. Agency Comments—States, agencies etablished pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in Section 313(b) of the Federal Power Act, 16 U.S.C. Section 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: July 11, 1988.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–15905 Filed 7–13–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. FA–58–000]

Arkansas Power & Light Co.; Order Establishing Hearing Procedures

Issued: July 11, 1988.

On April 18, 1988, the Commission issued a letter order [1] noting Arkansas Power & Light Company's (AP&L) disagreement with certain items contained in the staff's audit report of AP&L's books and records. The letter noted AP&L's staff's findings regarding: (1) Transfers of property between affiliated companies, (2) allowance for funds used during construction, depreciation and overheads after the in-service date of Independence Unit No. 1 and (3) expenses related to equal employment opportunity cases. AP&L was requested to advise whether it would agree to the disposition of the issues under the shortened procedures provided for by Part 41 of the Commission's Regulations. 18 CFR 41.1, *et seq.*

On May 17, 1988, AP&L responded that it did not consent to the shortened procedures. Section 41.7 of the Commission's Regulations provides that in case consent to the shortened procedures is not given the proceeding will be assigned for hearing. Accordingly, the Acting Secretary, under authority delegated by the Commission, will set these matters for hearing.

Any interested person seeking to participate in this docket shall file a protest or a motion to intervene pursuant to Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) no later than 15 days after the date of publication of this order in the **Federal Register.**

It is ordered:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act, the provisions of the Federal Power Act particularly sections 205, 206 and 301 thereof, and pursuant to the Commission's Rules of Practice and Procedure (18 CFR, Chapter I), a public hearing shall be held concerning the appropriateness of AP&L's accounting practices as discussed above.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within 45 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. The Presiding Judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(C) This order shall be promptly published in the **Federal Register.**

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–15862 Filed 7–13–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA88–2–63–000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

July 11, 1988.

Take notice the Carnegie Natural Gas Company ("Carnegie"), on July 1, 1988, tendered for filing proposed changes in its FERC Gas Tariff, Volume No. 1. Specifically, Carnegie filed the following tariff sheets:

Ninth Revised Sheet No. 47
Ninth Revised Sheet No. 48

Carnegie states that these tariff sheets are being filed pursuant to 18 CFR 154.305 as part of Carnegie's annual purchased gas adjustment filing. Carnegie states that pursuant to the Purchased Gas Adjustment provisions of its FERC Gas Tariff it proposes to increase gas its rates to reflect changes in projected purchase costs. Ninth Revised Sheet Nos. 47 and 48 reflect an increase of .3164 per Dth in the Demand-1 charge applicable to LVWS and CDS service; an increase of $.0005 per Dth in the Demand-2 charge applicable to LVWS and CDS service; an increase of $.0138 per Dth in the commodity charges applicable LVWS and CDS service; and an increase of $.0267 per Dth applicable to LVIS service.

[1] 43 FERC ¶ 61,160 (1988).

Copies of the filing were served upon Carnegie's jurisdictional customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 28, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will 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. 88-15864 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-212-000]

Enogex, Inc.; Petition for Declaratory Order, Or for Waiver of Regulations, or Alternatively, for Approval of Rates and Charges for Transportation of Gas Pursuant to Subpart C of Part 284 of the Commission's Regulations

July 11, 1988.

Take notice that Enogex Inc. (Enogex) on July 6, 1988, filed a petition for a declaratory order that certain natural gas transportation arrangements between (i) Delhi Gas Pipeline Corporation (Delhi) and Enogex, and (ii) Transok, Inc. (Transok) and Enogex, are not subject to the Commission's jurisdiction under the Natural Gas Act, 15 U.S.C. 717, *et seq.* (1982), and further, that transportation arrangements between Enogex and these two companies do not require Commission approval under section 311(a)(2) of the Natural Gas Policy Act, 15 U.S.C. 3371 (1982). If the Commission concludes that these transportation arrangements are subject to its regulations, Enogex requests a waiver of those regulations and filing requirements.

In the event the Commission declines to issue the requested order or grant requested waiver, then alternatively, pursuant to § 284.123(b)(2) of the Commission's regulations (18 CFR 284.123(b)(2) (1987)), Enogex requests that the Commission approve a maximum transportation charge of 28.50 cents per Mcf for NGPA section 311 transportation on behalf of Delhi and Transok

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy 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). All such motions should be filed on or before July 18, 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. 88-15867 Filed 7-13-88; 8:45 am]

BILLING CODES 6717-01-M

[Docket No. TA88-1-24-000]

Equitrans, Inc.; Proposed Change in FERC Gas Tariff

July 11, 1988.

Take notice that Equitrans, Inc. (Equitrans) on July 7, 1988, tendered for filing with the Federal Regulatory Commission (Commission) the following tariff sheets to it FERC Gas Tariff, Original Volume No. 1, to become effective:

September 1, 1988

Second Revised Sheet No. 10
Second Revised Sheet No. 14

October 1, 1988

Third Revised Sheet No. 10
Third Revised Sheet No. 14

Equitrans states that the filing is made pursuant to §§ 154.305 and 154.310 of the Commission's regulations and is in conformity to the provisions of Order 483, as amended.

Equitrans states that the change in rates results from the application of its Purchase Gas Cost Adjustment provisions in Section 19, of its General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1.

The sales rates set forth on Rate Schedule PLS reflect an overall increase of $.0332 per dth in the Commodity rate. The current purchase gas adjustment to Rate Schedules PLS is a decrease of $.0420 per dekatherm (dth) and the Surcharge Adjustment is an increase of $.0752 per dth. This change results in a current estimated average cost of gas in this filing of $2.2255 per dth and a Total Commodity Charge of $2.6636 per dth.

The current adjustment to D (1) Purchase Gas Costs for Rate Schedule PLS reflects an increase of $.1415 per dth for an overall D (1) demand costs of $3.0206 per dth.

The current adjustment to D (2) Purchase Gas Costs for Rate Schedule PLS reflects a decrease of $.0037 per dth for an overall D (2) demand costs of $.0711 per dth.

The current purchase gas adjustment to Rate Schedules GS-1 is a decrease of $.9318 per dth. The Surcharge Adjustment is a decrease of $1.8318 per dth. This change results in a current estimated average cost of gas in this filing of $.9897 per dth and a Total Commodity Charge of $1.1927 per dth.

Equitrans states that tariff sheets Third Revised Sheet No. 10 and Third Revised Sheet No. 14 are submitted in accordance with §§ 154.305 and 154.310 of the Commission's regulations to be effective October 1, 1988. Said tariff sheets eliminate the one month Surcharge Adjustment of $.0752 per dth for Rate Schedule PLS and the one month Surcharge Adjustment of $1.8318 per dth for Rate Schedule GS-1.

After the elimination of the Surcharge Adjustment effective Ocrober 1, 1988 the total Commodity Charges for Rate Schedules PLS and GS-1 will be $2.5884 and $3.0245 per dth, respectively.

Equitrans states that a copy of its filing has been served upon its purchasers and interested State commissions and upon each party on the service list of Docket CP88-676-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or 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. All such motions or protests should be filed on or before July 21, 1988.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15865 Filed 7-13-88; 8:45am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-14-000]

Lawrenceburg Gas Transmission Corp.; Filing Substitute Tariff Sheet

July 11, 1988.

Take notice that on July 5, 1988, Lawrenceburg Gas Transmission Corporation ("Lawrenceburg") tendered for filing one (1) revised gas tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1, dated as issued on July 1, 1988, proposed to become effective August 1, 1988, and identified as follows:

Forty-fourth Revised Sheet No. 4

Lawrenceburg states that its revised tariff sheet was filed under its Purchased Gas Adjustment (PGA) Provision in order to track changes in the rates of its pipeline supplier. Lawrenceburg was granted a temporary waiver from the requirement of Orders No. 483 and 483-A, that allow it to continue to use its existing purchased gas adjustment provision pending Commission approval of its abandonment application at Docket No. CP88-368-000.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing, should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 28, 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. 88-15870 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA85-65-000]

Mississippi Power & Light Co.; Order Establishing Hearing Procedures

Issued July 11, 1988.

On April 18, 1988, the Commission issued a letter order [1] noting Mississippi Power & Light Company's (MP&L) disagreement with certain items contained in the staff's audit report of MP&L's books and records. The letter noted MP&L's disagreement with the staff's findings regarding: (1) Transfers of property between affiliated companies, (2) allowance for funds used during construction and (3) accounting for coal slurry pipeline costs. MP&L was requested to advise whether it would agree to the disposition of the issues under the shortened procedures provided for by Part 41 of the Commission's Regulations. 18 CFR 41.1, *et seq.*

On May 19, 1988, MP&L responded that it did not consent to the shortened procedures. Section 41.7 of the Commission's Regulations provides that in case consent to the shortened procedures is not given the proceeding will be assigned for hearing. Accordingly, the Acting Secretary, under authority delegated by the Commission, will set these matters for hearing.

Any interested person seeking to participate in this docket shall file a protest or a motion to intervene pursuant to Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) no later than 15 days after the date of publication of this order in the **Federal Register.**

It is ordered:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act, the provisions of the Federal Power Act, particularly sections 205, 206 and 301 thereof, and pursuant to the Commission's Rules of Practice and Procedure (18 CFR, Chapter I), a public hearing shall be held concerning the appropriateness of MP&L's accounting practices as discussed above.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within 45 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. The Presiding Judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(C) This order shall be promptly published in the **Federal Register.**

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15863 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-94-008]

Sea Robin Pipeline Co.; Compliance Tariff Filing

July 11, 1988.

Takle notice that on July 7, 1988, Sea Robin Pipeline Company (Sea Robin) submitted the following tariff sheets as part of Sea Robin's FERC Gas Tariff, Original Volume No. 1, in compliance with the Commission's Order dated June 22, 1988:

Revised Fourth Revised Sheet No. 4-A2
First Revised Sheet No. 33
First Revised Sheet No. 51
First Revised Sheet No. 52
First Revised Sheet No. 56
First Revised Sheet No. 63
Original Sheet No. 63A
First Revised Sheet No. 64
First Revised Sheet No. 65
First Revised Sheet No. 72
First Revised Sheet No. 73
First Revised Sheet No. 75
Original Sheet No. 75A
First Revised Sheet No. 76
First Revised Sheet No. 83
First Revised Sheet No. 84
First Revised Sheet No. 85
First Revised Sheet No. 86
First Revised Sheet No. 115

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 18 CFR 385.214 and 385.211. All such motions or protests should be filed on or before July 18, 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. 88-15868 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

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[1] 43 FERC ¶ 61,163.

[Docket No. RP88-200-000]

Transcontinental Gas Pipe Line Corp.; Request For Waiver of Tariff Provisions

July 11, 1988.

Take notice that on June 27, 1988, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a petition for authorization for limited waiver of certain provisions of its FERC Gas Tariff.

Transco requests authorization for a limited waiver of certain provisions of its FERC Gas Tariff so as to permit Transco to avoid collection of its minimum annual commodity bill from its full requirement customers during the contract year commencing November 1, 1985 and ending October 31, 1986 (contract year 1986). Transco states there is good cause to allow waiver of its minimum annual commodity bill tariff provisions for full requirement customers who had no control over their market loss during contract year 1986.

Transco further states that the economic impact of the requested waiver will fall on Transco's shareholders and that it has no objection to the Commission imposing a condition precluding future recovery of losses related to the waiver from its customers.

Copies of the filing have been served on Transco's customers and interested state commissioners.

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 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, and 385.211). All such motions or protests should be filed on or before July 18, 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. 88-15869 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ88-2-43-000]

Williams Natural Gas Co.; Proposed Changes In FERC Gas Tariff

July 11, 1988.

Take notice that Williams Natural Gas Company (WNG) on July 5, 1988, tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume, No. 1:

Sixth Revised Sheet No. 6
Fifth Revised Sheet No. 7
Third Revised Fourth Revised Sheet No. 6
Fourth Revised Third Revised Sheet No. 7

A magnetic tape is also being filed in compliance with FERC Form No. 542-PGA.

WNG states that pursuant to the Purchased Gas Adjustment in Article 21 of its FERC Gas Tariff, it proposes to decrease its rates effective August 1, 1988, to reflect a $.1203 per Mcf decrease in the Cumulative Adjustment due to a decrease in WNG's projected gas purchase costs.

WNG states that the alternative Sheet Nos. 6 and 7 are submitted to accommodate the timing of effectiveness of corresponding sheets filed by WNG on June 15, 1988, in Docket Nos. RP86-32, *et al.*

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 18, 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 proceedings. 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. 88-15866 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-22-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Traiff

July 11, 1988.

Take notice that CNG Transmission Corporation ("CNG"), on July 1, 1988, filed the following revised tariff sheet to Original Volume No. 1 of its tariff:

Second Revised Sheet No. 31

The filing is CNG's annual PGA filing to be effective September 1, 1988. The effect of the filing is to increase RQ and CD commodity rates by 18.46 cents per Dt, increase RQ and CD D-1 demand rates by 53 cents per Dt and to increase RQ and CD D-2 demand rates by 4.13 cents per DT. Other sales rates are changed correspondingly.

The filing is based upon a quarterly gas supply and requirements estimate required by the Commission but reflects only those gas used expenses (including lost and unaccounted for gas) that relate to sales for the quarter. The filing also reflects a revision to CNG's storage inventory valuation method. Effective January 1, 1988, CNG has removed demand costs from the computation of its storage inventory rate.

Copies of the filing were served upon CNG's sales 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 20626, in accordance with Rules 214 and 211 of the Commission's Rule of Practice and Procedure 18 CFR Sections 385.214 and 385.211). All motions or protests should be filed on or before July 27, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15790 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-58-019]

El Paso Natural Gas Co.; Tariff Filing

July 7, 1988.

Take notice that El Paso Natural Gas

Company ("El Paso"), on July 1, 1988, tendered for filing pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, Article XII of the Stipulation and Agreement at Docket No. RP85–58–000, *et al.*, and in compliance with ordering paragraph (B) of the Commission's order issued May 18, 1988 at Docket Nos. RP85–58–017 and RP88–44–000, certain tariff sheets which reflect a reduction in jurisdictional rates which are identified on the attached Appendix, for inclusion in its FERC Gas Tariff, First Revised Volume No. 1, Original Volume No. 1–A, Third Revised Volume No. 2 and Original Volume No. 2A.

El Paso states that on January 29, 1988, it submitted data and information necessary to comply with the Commission's order issued December 16, 1987 at Docket No. RP85–58–000, *et al.* By order issued May 18, 1988 at Docket Nos. RP85–58–017 and RP88–44–000 the Commission, *inter alia*, rejected El Paso's January 29, 1988 compliance filing as being in non-compliance with the December 16, 1987 order. Ordering paragraph (B) of the May 18, 1988 order directed El Paso to file, within 15 days of the date the order is final, revised tariff sheets to be effective July 1, 1987, to reflect the decrease in the Federal corporate income tax rate from 46 percent to 34 percent, without the proposed offset for AMT.

El Paso states that in accordance with the Commission's order of May 18, 1988, El Paso has recalculated the decrease in its rates utilizing the offsets determined by the Commission to be allowable under the terms of El Paso's Stipulation and Agreement which results in a decrease in rates of $.0202 per dth.

El Paso further states that the tendered tariff sheets reflect the reduction of $.0202 per dth to the commodity portion of El Paso's jurisdictional sales rates and, in the transportation rates, the mainline transmission charges ($.0101 per dth is applicable to the Back Haul Charge).

El Paso requested that the tendered revised tariff sheets be accepted for filing and permitted to become effective on the dates specified on the attached appendix.

Copies of the filing were served upon all parties of record in Docket No. RP85–58–000, *et al.*, and otherwise upon all interstate pipeline system customers of El Paso and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 351.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 14, 1986. 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.

EL PASO NATURAL GAS COMPANY

	Effective date
First Revised Volume No. 1	
First Substitute Thirteen Revised Sheet No. 100.	July 1, 1987.
First Substitute First Revised Sheet No. 100–A.	Do.
Substitute Fourteenth Revised Sheet No. 100.	Oct. 1, 1987.
Substitute Second Revised Sheet No. 100–A.	Do.[1]
Substitute Fifteenth Revised Sheet No. 100.	Do.
Substitute Third Revised Sheet No. 100–A.	Do.[1]
Alternate Sixteenth Revised Sheet No. 100.	Jan. 1, 1988.
Alternate Fourth Revised Sheet No. 100–A.	Do.
Alternate Substitute Sixteenth Revised Sheet No. 100.	Apr. 1, 1988.[2]
Alternate First Substitute Sixteenth Revised Sheet No. 100.	Do.
Alternate First Substitute Fourth Revised Sheet No. 100–A.	Do.
Original Volume No. 1–A	
First Substitute Third Revised Sheet No. 20.	July 1, 1987.
Substitute Fourth Revised Sheet No. 20.	Oct. 1, 1987.
Substitute Fifth Revised Sheet No. 20.	Jan. 1, 1988
Third Revised Volume No. 2	
First Substitute Thirty-seventh Revised Sheet No. 1–D.	July 1, 1987.
First Substitute Eighteenth Revised Sheet No. 1–D.2.	Do.
Substitute Thirty-eighth Revised Sheet No. 1–D.	Oct. 1, 1987.
Substitute Thirty-ninth Revised Sheet No. 1–D.	Do.[1]
Substitute Nineteenth Revised Sheet No. 1–D.2.	Do.
Alternate Fortieth Revised Sheet No. 1–D.	Jan. 1, 1988.
Substitute Twentieth Revised Sheet No. 1–D.2.	Do.
Alternate Substitute Fortieth Revised Sheet No. 1–D.	Apr. 1, 1988.[2]
Alternate First Substitute Fortieth Revised Sheet No. 1–D.	Do.
Original Volume No. 2A	
Substitute Thirty-ninth Revised Sheet No. 1–C.	July 1, 1987.
Substitute Fortieth Revised Sheet No. 1–C.	Oct. 1, 1987.

EL PASO NATURAL GAS COMPANY—Continued

	Effective date
Substitute Forty-first Revised Sheet No. 1–C.	Do.[1]
Alternate Forty-second Revised Sheet No. 1–C.	Jan. 1, 1988.
Alternate Substitute Forty-second Revised Sheet No. 1–C.	Apr. 1, 1988.[2]
Alternate First Substitute Forty-second Revised Sheet No. 1–C.	Do.

[1] The rates reflected on said tariff sheets were accepted for filing by order issued September 29, 1987 at Docket No. RP87–139–000, *et al.*, which provides for the assessment and collection from interstate pipelines' annual charges to their customers through an annual charge adjustment, pursuant to the Commission's Order No. 472.

[2] The rates reflected on said tariff sheets were accepted for filing by order issued March 31, 1988 at Docket Nos. TA88–3–33–000 and TA88–1–33–000. As permitted by and in compliance with ordering paragraph (C) of said order, El Paso notified the Commission of its election to file lower rates which were accepted for filing by letter order dated April 26, 1988 at Docket No. TA88–3–33–001.

[FR Doc. 88–15703 Filed 7–13–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–116–002]

Louisiana-Nevada Transit Co.; Correction to Filing

July 8, 1988.

Take notice that on June 29, 1988, Louisiana-Nevada Transit Company's (LNT) filed a revised schedule showing its plan for the distribution of its balance in account 191. The original schedule, labelled Compliance Schedule A, was submitted with NLT's filing dated June 9, 1988.

LNT states that a revision to Compliance Schedule A was requested by Commission staff to correct the account 191 balance to be distributed. The Commission Order of May 27, 1988, (paragraph D) directed LNT to file a plan for distribution of its balance in Account 191. In the discussion section of that same order, that balance is shown as an overcollection of $4,570. Compliance Schedule A showed disposition of that amount.

LNT states that on review, Commission staff determined that the correct amount to be distributed was $14,949, and that revised Compliance Schedule A, corrects the balance to be distributed.

LNT states that copies of the filing were served upon all its jurisdictional customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to

intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 15, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will 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. 88-15788 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-151-002 and TQ88-1-27-002]

North Penn Gas Co.; Proposed Changes In FERC Gas Tariff

July 8, 1988.

Take notice that North Penn Gas Company (North Penn) on July 1, 1988 tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Fourth Revised Sheet No. 1
Substitute Eighty-Eighth Revised Sheet No. PGA-1
Fortieth Revised Sheet No. 4
Forty-First Revised Sheet No. 5
First Revised Sheet No. 5A(1)
First Revised Sheet No. 5A(2)
First Revised Sheet No. 5B
Substitute Sixth Revised Sheet No. 15C
Substitute Seventh Revised Sheet No. 15D
Substitute Seventh Revised Sheet No. 15E
Substitute Third Revised Sheet No. 15F
Substitute Fourth Revised Sheet No. 15G

The revised tariff sheets are being filed in compliance with the Federal Energy Regulatory Commission's (Commission) letter orders in the above docket numbers dated May 31 and June 23, 1988 and are proposed to be effective June 1, 1988.

In support of the rates contained in Substitute Eighty-Eighth Revised Sheet No. PGA-1, North Penn submits Schedule D1 (Appendix A) and Schedule Q1 (Appendix B) which eliminates volumes associated with Corning Natural Gas Corporation (Corning) pursuant to the Commission's May 31, 1988 letter order in these dockets.

North Penn respectfully requests waiver of any other of the Commission's rules and Regulations as may be required to permit this filing to become effective June 1, 1988, as proposed.

Copies of this filing are being mailed to each of North Penn's jurisdictional customers (including Corning) 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 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motion or protests should be filed on or before July 15, 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. 88-15787 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ88-1-37-000 and RP88-154-002]

Northwest Pipeline Corp.; Change in FERC Gas Tariff

July 8, 1988.

Take notice that on July 1, 1988, Northwest Pipeline Corporation ("Northwest") filed the tariff sheets listed below in compliance with the Federal Energy Regulatory Commission ("Commission") order issued June 1, 1988 in the above-captioned dockets.

First Revised Volume No. 1

Eleventh Revised Sheet No. 126
Sixth Revised Sheet No. 126-A
Fifth Revised Sheet No. 128-A
Sixth Revised Sheet No. 129

Northwest states that the tariff sheets mentioned above were filed to comply with ordering paragraphs (E) and (F) of the aforementioned order. Such tariff revisions reflect the proper handling of Canadian toll credits in a manner consistent with Order 483. Northwest requests an effective date of June 1 for each of the respective tariff sheets.

A copy of this filing has been mailed to Northwest's jurisdictional customers and affected state commissions.

Any persons desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 15, 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 Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15786 Filed 7-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ88-2-41-000]

Paiute Pipeline Co.; Proposed Revised Tariff Sheets

July 8, 1988.

Take notice that on July 1, 1988, Paiute Pipeline Company (Paiute) tendered for filing six (6) copies of First Revised Sheet No. 10 applicable to its FERC Gas Tariff, Original Volume No. 1. Paiute states that pursuant to the Purchased Gas Adjustment (PGA) provision contained in Section 9 of the General Terms and Conditions of Paiute's tariff, Paiute is submitting its quarterly PGA filing and that the instant filing reflects changes in rates from Paiute's pipeline and non-pipeline suppliers.

Paiute states that it is submitting this quarterly PGA filing as a successor to the jurisdictional activities of Southwest Gas Corporation (Southwest) pursuant to Commission order issued May 17, 1988 in Docket No. CP87-309-000, 43 FERC ¶ 61,257. Paiute states that the effective date of the transfer of the facilities and services to Paiute, and the date of Paiute's commencement of operations, will be August 1, 1988. Accordingly, Paiute is submitting the instant quarterly PGA filing in lieu of Southwest.

Paiute further states that Southwest has been, and Paiute will be, acquiring and having transported substantial quantities of Canadian gas to meet its system supply requirements. Paiute requests that the Commission grant it permanent approval under § 154.302(j)(11) to treat as purchased gas costs to be recovered through Paiute's PGA clause the costs of Canadian gas supplies and gas purchased from marketers.

Pauite further states that in the concurrent tariff filing being submitted by Paiute and Southwest in Docket Nos. CP87-309-002 and RP88-208-000, Paiute

and Southwest indicate that in their joint application filed in Docket No. CP87–309–000 on April 28, 1987, Southwest proposed to eliminate the surcharge in effect in its rates to amortize its Account No. 191 balance, and to clear any balance remaining in its Account No. 191 as of the date of the transfer of its jurisdictional facilities and operations to Paiute, by either remitting a credit balance to Sierra Pacific and CP National in lump sum payments, or by billing a debit balance to Sierra Pacific and CP National in equal installments over a six-month period. The purpose of this proposal was to permit Paiute to commence operations with a zero balance in its Account No. 191, and to avoid any inequities in distributing credits or assigning costs in view of the fact that Paiute will be serving two additional jurisdictional sales customers, Southwest-Northern Nevada and southwest Southern-Nevada. Accordingly, the revised tariff sheet proposed in the instant filing sets forth proposed rates that do not reflect any Account No. 191 surcharge amounts.

Pursuant to the Commission's Blanket Order issued May 25, 1988 in Dockets Nos. RP88–152–000, *et al.*, Paiute states that herewith submits its PGA data on a 5.25" (360KB) double sided, double density diskette, 48 tracks per inch, 40 tracks per surface, 512 bytes per sector, 9 sectors per track. The data has been saved in a Lotus 2.1 program file under the name of 542–PGA.

Finally, Paiute states that if the rates submitted by its primary supplier, Northwest Pipeline Corporation are revised for any reason, Paiute reserves the right to submit a substitute sheet to track the Northwest revisions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Comission's Rules and Regulations. All such motions or protests should be filed on or before July 15, 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. 88–15785 Filed 7–13–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA88–2–30–000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

July 11, 1988.

Take notice that Trunkline Gas Company (Trunkline) on July 1, 1988, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

Sixty-Third Revised Sheet No. 3–A

The proposed effective date of the revised tariff sheet is September 1, 1988.

Trunkline states that the revised tariff sheet reflects a commodity rate increase of 5.85¢ per Dt. This increase includes:

(1) A (0.98¢) per Dt decrease in the projected purchased gas cost component; and

(2) A 6.83¢ per Dt increase in the surcharge to recover the Current Deferred Account Balance at April 30, 1988 and related carrying charges.

Copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 27, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–15789 Filed 7–13–88; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals; DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $1,057,703 (plus accrued interest) obtained as a result of a Consent Order that the DOE entered into with World Oil Company (Case No. KEF–0005), a refiner of crude oil and a reseller-retailer of petroleum products located in Los Angeles, California. The fund will be available to firms that purchased World product during the consent order period.

DATE AND ADDRESS: Application for Refund from the World Oil Company refined product pool must be filed no later than February 1, 1989. Applications for Refund from the World Oil Company crude oil pool must be postmarked no later than October 31, 1989. All applications should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All applications should conspicuously display a reference to Case No. KEF–0005.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–2390.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to a January 19, 1984 consent order between the DOE and World Oil Company (World). That consent order settled certain disputes between the firm and the DOE concerning World's possible violations of DOE regulations in its sales of crude oil and refined petroleum products. The consent order covers the period August 20, 1973 through January 27, 1981.

The Decision sets forth the procedures and standards that the DOE has formulated to distribute the contents of an escrow account in the amount of $1,057,703, funded by World pursuant to the consent order. Under the procedures adopted, the DOE will divide the consent order fund into two pools, one relating to World's crude oil sales and the other relating to the sales of refined products. Purchasers of World refined products may file claims for refunds from the escrow fund. The amount of the refund available to an applicant will generally be a pro rata or volumetric share of the World consent order fund allocated to refined products. In order to receive a refund, a claimant must furnish the DOE with evidence that it was injured by the alleged overcharges. However, the Decision indicates that no separate, detailed showing of injury will be required of end-users of the relevant product, or of firms that file refund claims in amounts of $5,000 or less. The

specific requirements for proving injury are set forth in the Decision and Order.

Under the procedures adopted, the portion of the consent order fund attributable to World's alleged crude oil violations will be placed into a pool of crude oil monies for distribution pursuant to the DOE's Modified Statement of Restitutionary Policy for crude oil claims.

Applications for Refund for a portion of the World Oil Company refined product pool must be postmarked no later than February 1, 1989. Applications for Refund from the World Oil Company crude oil pool must be postmarked no later than June 30, 1989. Refund applicants must file two copies of their submission. All applications will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: July 7, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 7, 1988

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: World Oil Company.
Date of Filing: October 16, 1985.
Case Number: KEF-0005.

On October 16, 1985, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a petition with the Office of Hearings and Appeals (OHA), requesting that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings involving World Oil Company (World). See 10 CFR Part 205, Subpart V. This Decision and Order sets forth the procedures that the OHA has formulated to govern the distribution of the World settlement fund.

I. Background

World was a "producer" of crude oil and a "refiner" as those terms are defined in 10 CFR 212.31. Between August 20, 1973 and January 27, 1981 (the consent order period), World was a "producer" of crude oil. From February 1976, the date World acquired its refining subsidary Sunland Refining Corporation, through the end of the consent order period, World was a "refiner" of crude oil. World was therefore subject to the Mandatory Petroleum Price and Allocation Regulations set forth at 10 CFR Parts 211 and 212. The ERA conducted an extensive audit of World's operations and found in two Notices of Probable Violation that the firm had violated applicable DOE pricing and allocation regulations in its sales of crude oil and refined petroleum products during the consent order period. In order to settle all claims and disputes between World and the DOE, the two parties entered into a consent order that became final on January 19, 1984. Under the terms of the Consent Order, World agreed to remit $1,100,000 to the DOE to settle alleged violations that occurred during the consent order period.

The World Consent Order states that $900,000 of the $1,100,000 remitted by World would be disbursed to the State of Califorinia for indirect restitution.[1] After this disbursement was made, there remained $200,000 in the World Account ($1,100,000 − $900,000 = $200,000). The Consent Order states that this $200,000 concerns alleged violations in World's pricing of crude oil during the consent order period.

Furthermore, in the Consent Order, World agrees to waive its right to a potential refund of $857,703 ($445,487 in principle and $412,216 in interest) held by the DOE in escrow in a pending DOE proceeding with Edgington Oil Company, Inc. (EDG). *Id.* Consequently, the DOE transferred World's potential refund amount in the EDG proceeding, or $857,703 from the EDG Account to the World Account. The EDG Consent Order indicated that World was allegedly overcharged in that amount as a result of World's purchases of motor gasoline from EDG. Therefore, this amount, or $857,703, concerns alleged violations in the sales of refined petroleum products during the consent order period.

On February 18, 1988, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the World consent order fund. In order to give notice to all potentially affected parties, a copy of the PD&O was published in the **Federal Register** and comments regarding the proposed refund procedures were solicited. 53 FR 5455 (February 24, 1988). We received no comments concerning the proposed procedures for the distribution of the World consent order fund. Consequently, they will be adopted as proposed.

II. Refund Procedures

As we indicated in the PD&O, the World Consent Order resolved alleged regulatory violations involving the sale of both crude oil and refined petroleum products. Therefore, the escrow fund will be divided into two pools. Because $200,000 of the World fund concerns alleged violations in World's pricing of crude oil, this amount shall be set aside as a pool of crude oil funds available for disbursement. Furthermore, because the $857,703 transferred from the EDG Account to the World Account involves alleged violations in sales of refined petroleum products, this amount shall be set aside as a pool of funds to be made available for distribution to claimants who demonstrate that they were injured by World in its sales of refined petroleum products.

III. Distribution of the World Crude Oil Funds

On July 28, 1986, as a result of the court-approved Settlement Agreement in *The Department of Energy Stripper Well Exemption Litigation, In Re:* M.D.L. No. 378, the DOE issued a Modified Statement of Restitutionary Policy (MSRP) providing that crude oil overcharge revenues will be divided among the States, the United States Treasury and eligible purchasers of crude oil and refined products. 51 FR 27899 (August 4, 1986). Twenty percent of the crude oil violations amounts will be reserved to satisfy claims from injured parties that purchased refined petroleum products between August 19, 1973 and January 31, 1981 (the crude oil price control period). The MSRP also calls for the remaining 80 percent of the funds to be disbursed equally between state and federal governments for indirect restitution. Once all valid claims are paid, any remaining funds will be divided equally between the state and federal governments. The federal government's share of the unclaimed funds will ultimately be deposited into the general fund of the Treasury of the United States.

The World crude oil monies, $200,000, plus interest, will be disbursed in accordance with the MSRP, using the procedures described in *A. Tarricone, Inc., et al.*, 15 DOE ¶ 85,495 (1987). We will reserve 20 percent of those funds, $40,000, plus interest, for distribution to injured parties in the DOE's Subpart V

[1] World is a California based corporation that made virtually all of its sales in that state during the months in which the alleged violations occurred. In the Consent Order, World agreed to remit $900,000 to the State of California to fund any of the five energy conservation programs specified in the Consent order. The DOE determined that indirect restitution through the State of California would be appropriate because it would otherwise be difficult to identify those California end-user customers who, in all likelihood, bore the ultimate burden of World's alleged pricing violations. *See* World Consent Order, 49 FR 2290 (January 19, 1984).

crude oil refund proceedings. As in non-crude oil cases, applicants will be required to document their purchase volumes and to prove that they were injured by the alleged violations (i.e. that they did not pass through the alleged overcharges to their own customers). However, in the Subpart V crude oil refund proceedings, we are adopting a presumption that end-users and ultimate consumers whose business are unrelated to the petroleum industry were injured by a consent order firm's alleged overcharges. Refunds to eligible claimants that purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the World crude oil refund pool of $200,000 by the total consumption of petroleum products in the United states during the crude oil price control period (2,020,997,335,000 gallons). *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 at 88,868 (1986). This approach reflects the fact that crude oil overcharges were spread to every region by the Entitlements Program.[2] The volumetric amount for the crude oil pool established in this proceeding is therefore $0.000000098961 per gallon of refined products purchased ($200,000/2,020,997,335,000 = $0.000000098961). All claimants that filed successful crude oil applications will receive additional refunds *without* having to file another application.

The remaining 80 percent of the World crude oil funds, $160,000, plus interest, as well as any portion of the above-mentioned 20-percent reserve that is not distributed, will be divided equally between the state and federal governments for indirect restitution. We will therefore direct the DOE's Office of the Controller to disburse immediately $80,000, plus appropriate interest, to the State crude oil tracking account and $80,000, plus appropriate interest, to the federal government crude oil tracking account.

IV. Final Refund Procedures for the World Refined Product Funds

This Section sets forth the considerations applicable to refund claims from the pool apportioned to World refined products. The World refined products pool will be distributed to purchasers of World refined product who satisfactorily demonstrate that they were injured by World's alleged pricing violations. From our experience with Subpart V refund proceedings, we believe that most applicants will fall into the following categories: (1) End-users, i.e., ultimate consumers that used World refined products; (2) regulated entities, such as public utilities that used World products in their businesses, or cooperatives that sold World products in their businesses; and (3) refiners, resellers or retailers that resold World products.

As we discussed in our Proposed Order, refunds will generally be made on a pro rata or volumetric basis. This approach is based on the presumption that the alleged overcharges were dispersed equally in all sales of refined products made by World during the consent order period. In the absence of better information, a volumetric refund assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

Under the volumetric refund approach we are adopting, a claimant will be eligible to receive a refund equal to the number of gallons purchased times the per gallon refund amount, plus accrued interest. The record in the present case is inconclusive with respect to the precise volume of products sold by World. As we indicated in the PD&O, based on our considerable experience in conducting refund proceedings, we have made a reasonable estimate and have set the per gallon refund amount at $.001 per gallon. We also recognize that some claimants may have been disproportionately overcharged. Therefore, any purchaser may file a refund application based on a claim that it suffered a disproportionate share of the alleged overcharges. *See, e.g., Sid Richardson Carbon and Gasoline Co.*, 12 DOE ¶ 85,054 at 88,164 (1984).

(A) Specific Application Requirements for Each Category of Refund Applicants

(1) Refund Applications of End-Users

End-users, i.e., ultimate consumers of World refined products, will be presumed to have been injured by the alleged overcharges. Unlike regulated firms in the petroleum industry, end-users generally were not subject to price controls during the consent order period. Moreover, they were not required to keep records that justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984) (*Texas*). Consequently, end-user claimants need only document their purchase volumes of World products to make a sufficient showing that they were injured by the alleged overcharges.

(2) Refund Applications of Cooperatives and Regulated Entities

Public utilities, agricultural cooperatives and other entities whose prices are regulated by governmental agencies, or governed by cooperative agreements do not have to submit detailed proof of injury. Although such regulated entities generally would have passed any overcharges through to their customers, they generally would pass through any refunds as well. Therefore, those firms and cooperative groups will be required to certify that they will pass any refund received through to their customers, to provide us with a full explanation of how they plan to accomplish this restitution to their customers and to explain how they will notify the appropriate regulatory body or membership group of the receipt of refund money. *See Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). We note, however, that a cooperative's sales of World products to non-members will be treated in the same manner as sales by other resellers.

(3) Refund Applications of Refiners, Resellers and Retailers

a. Refiners, Resellers and Retailers Seeking Refunds of $5,000 or Less. We are adopting the small-claims presumption set forth in the Proposed Order. Therefore, a refiner, reseller or retailer claiming a refund of $5,000 or less, excluding accrued interest, will be presumed to have been injured by World's alleged overcharges. Without this presumption, such an applicant would have to sort through records dating as far back as 1973 to gather proof that it absorbed the alleged overcharges. The cost to the claimant of gathering this information, and to the OHA of analyzing it, could exceed the actual refund amount. Under this injury presumption, a small-claims claimant need only document the volume of World refined petroleum products that it purchased during the consent order period. *See Texas*, 12 DOE at 88,210; *Office of Special Counsel*, 11 DOE ¶ 85,226 (1984).

b. Refiners, Resellers and Retailers Seeking Refunds Greater Than $5,000. A refiner, reseller or retailer whose full allocable share of the World consent order funds exceeds $5,000 will be

[2] The Department of Energy established the Entitlements Program to equalize access to the benefits of crude oil price controls among all domestic refiners and their downstream customers. To accomplish this goal, refiners were required to make transfer payments among themselves through the purchase and sale of "entitlements." This balancing mechanism had the effect of evenly dispersing overcharges resulting from crude oil miscertifications throughout the domestic refining industry. *See Amber Refining, Inc.*, 13 DOE ¶ 85,217 at 88,564 (1985).

required to document its injury. Such a claimant will be required to demonstrate that it maintained a bank of unrecovered product costs at least equal to the amount of the refund claimed beginning with the first month of the period for which a refund is claimed through the date on which either that product was decontrolled or the banking regulations expired. In addition, the claimant must show, through market conditions or otherwise, that it did not pass through those increased costs to its customers. Such a showing might be made though a demonstration of a competitive disadvantage, lowered profit margin, decreased market share or depressed sales volume during the period of purchases from World. *American Pacific International*, 14 DOE ¶ 85,158 at 88,295 (1986). If a refiner, reseller or retailer that is eligible for a refund in excess of $5,000 elects not to submit the cost bank and purchase price information described above, it may still apply for a small claims refund of $5,000, plus accrued interest.

(4) Applicants Seeking Refunds Based on Allocation Claims

We also recognize that we may receive claims alleging World allocation violations. Such claims will be based on the consent order firm's alleged failure to furnish petroleum products that it was obliged to supply to the claimant under the DOE allocation regulations. *See* 10 CFR Part 211. We will evaluate refund applications based on allocation claims by referring to standards such as those set forth in *Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984) and *Tenneco Oil Company/Research Fuels, Inc.*, 10 DOE ¶ 85,012 (1982). As those decisions recognize, the DOE will grant a refund application based on an allocation claim if the DOE determines that the grant will result in an equitable distribution of the consent order fund. Those decisions refer to some of the factors to be considered in assessing the merits of a refund application. The decisions also refer to some of the possible methodologies to be used to determine the refund amount.

(5) Refund Applications of Spot Purchasers

If a claimant made only sporadic purchases of significant volumes of World product, we will consider that claimant to be a spot purchaser. We are adopting a rebuttable presumption that claimants who made only spot purchases from World were not injured. Spot purchasers tend to have considerable discretion in where and when to make purchases. Therefore, they generally would not have made spot market purchases from World unless they were able to pass through the full amount of any price increases to their own customers. *See Office of Enforcement*, 8 DOE ¶ 82,597 at 85,396 (1981). Therefore, a firm that made only spot purchases from World will not receive a refund unless it presents evidence rebutting the spot purchaser presumption and establishing the extent to which it was injured.

(6) Refund Applications of Consignees

Finally, as in previous cases, we will presume that consignees of World refined petroleum products were not injured by the alleged overcharges. *See, e.g., Jay Oil Company*, 16 DOE ¶ 85,147 at 88,286 (1987). A consignee agent is an entity that distributed products pursuant to an agreement whereby its supplier established the prices to be paid and charged by the consignee and compensated the consignee with a fixed commission based upon the volume of products distributed. This presumption may be rebutted by showing that the consignee's sales volumes and corresponding commission revenues declined due to the alleged uncompetitiveness of World's pricing practices. *See Gulf Oil Corporation/C.F. Canter Oil Company*, 13 DOE ¶ 85,388 at 88,962 (1986).

(B) General Refund Application Requirements for Claims From the World Refined Product Pool

Pursuant to 10 CFR 205.283, we will accept Applications for Refund from individuals and firms that purchased refined petroleum products sold by World during the consent order period. There is no specific application form that must be used. However, all Applications for Refund should include the following information:

(1) An Application for Refund must be in writing, signed by the applicant and specify that it pertains to the World Oil Company Special Refund Proceeding, Case No. KEF–0005.

(2) Each applicant should furnish its name, title, street or post office address and telephone number. If the applicant is a business firm, it should furnish all other names under which it operated during the period for which the claim is being filed.

(3) Each applicant should specify how it used the World product,—i.e., whether it was a refiner, reseller, retailer, consignee or end-user.

(4) Each applicant must submit the volume of World petroleum product that it purchased in each month of the consent order period. If the applicant was an indirect purchaser, it must also submit the name of its immediate supplier and indicate why it believes the product was originally sold by World.

(5) If the applicant is a refiner, reseller or retailer that wished to claim a refund in excess of $5,000, it should also:

a. State whether it maintained banks of unrecouped product cost increased and furnish the OHA with quarterly bank calculations through January 27, 1981;

b. State whether it or any of its affiliates have filed any other Applications for Refund in which it referred to its level of banks as a basis for refund; and

c. Submit evidence that it did not pass through the alleged overcharges to its customers. For example, a firm may submit market surveys to show that price increases were infeasible.

(6) If the applicant is in any way affiliated with World, it must indicate the nature of the affiliation.

(7) If the applicant is involved in DOE enforcement or private actions filed under section 210 of the Economic Stabilization Act, it should describe the action and its current status. If the applicant was a party to such an action that is no longer pending, it should indicate how the proceeding was resolved. The applicant must keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

(8) All applicants must submit the following signed statement: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283 (c); 18 U.S.C. 1001.

(9) All Applications for Refund from the World Oil Company refined product pool must be filed in duplicate no later than February 1, 1989. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20085. Any applicant that believes its application contains confidential information must indicate this on the first page of its application and submit two additional copies of its application from which confidential information has been deleted, together with a statement specifying why any such information is privileged or confidential.

(10) Applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

(11) Applications for Refund from the World Oil Company refind product pool

must be postmarked no later than February 1, 1989.

(C) Distribution of the Remainder of the Consent Order Funds Attributable to World's Refined Product Sales

In the event that money remains after all refund claims from the World refined product pool have been analyzed, undistributed funds in that refund pool will be disbursed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986, H.R. 5400, Title III, 99th Cong. 2d Session., Cong. Rec. H11319–21, (Daily E. October 17, 1986).

It Is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by World Oil Company pursuant to the Consent Order finalized on January 19, 1984, may now be filed.

(2) Applications for Refund from the World Oil Company refined product pool must be filed no later than February 1, 1989.

(3) Applications for Refund from the World Oil Company crude oil pool must be filed no later than October 31, 1989. Individuals that have already filed a claim for a crude oil refund (RF272) should *not* file a new application.

(4) The Director of Special Accounts and Payroll, Office of Departmental Accounting and financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer, as provided in Paragraphs (5), (6) and (7) below, the total net current crude oil equity from the World Oil Company subaccount (Consent Order No. 960S00104Z) within the Deposit Fund Escrow Account maintained by the DOE at the Treasury of the United States.

(5) The Director of Special Accounts and Payroll shall transfer $118,382 ($80,000 in principal and $38,382 in interest), of the funds obtained pursuant to Paragraph (4) above into a subaccount denominated "Crude Tracking-Federal," Number 999DOE002WO.

(6) The Director of Special Accounts and Payroll shall transfer $118,382 ($80,000 in principal and $38,382 in interest), of the funds obtained pursuant to Paragraph (4) above into a subaccount denominated "Crude Tracking-States," Number 999DOE003WO.

(7) The Director of Special Accounts and Payroll shall transfer $59,191 ($40,000 in principal and $19,191 in interest), of the funds obtained pursuant to Paragraph (4) above into a subaccount denominated "Crude Tracking-Claimants 1," Number 999DOE007z.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 88–15890 Filed 7–13–88; 8:45 am]

BILLING CODE 6450–01–M

Southwestern Power Administration

Order Confirming, Approving And Placing Integrated System Power Rates In Effect On An Interim Basis

AGENCY: Southwstern Power Administration (SWPA), DOE.

ACTION: Notice of power rate order.

SUMMARY: The Under Secretary of Energy, acting under Delegation Order No. 0204–108, as amended, 51 FR 19744 (May 30, 1986), has confirmed, approved and placed in effect on an interim basis the following South-western Power Administration System Rate Schedules:

Rate Schedule P–87A, Peaking Power
Rate Schedule P–87B, Peaking Power through Oklahoma Utility Companies and/or Oklahoma Municipal Power Authority
Rate Schedule F–87B, Firm Power through Oklahoma Utility Companies
Rate Schedule TDC–87, Transmission Service
Rate Schedule IC–87, Interruptible Capacity
Rate Schedule EE–87, Excess Energy

The rate schedules supersede the existing rate schedules shown below:

Rate Schedule P–84A, Peaking Power
Rate Schedule P–84B, Peaking Power through Oklahoma Utility Companies and/or Oklahoma Municipal Power Authority
Rate Schedule F–84A, Firm Power
Rate Schedule F–84B, Firm Power through Oklahoma Utility Companies
Rate Schedule TDC–82 (Revised), Transmission Service
Rate Schedule IC–82, Interruptible Capacity
Rate Schedule EE–82, Excess Energy

EFFECTIVE DATES: Rate order No. SWPA–21 specifies July 1, 1988, through September 30, 1991, as the effective period for the rate schedules.

FOR FURTHER INFORMATION CONTACT: Francis R. Gajan, Director, Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101, (918) 581–7529.

SUPPLEMENTARY INFORMATION: The SWPA Administrator has determined, based on the Final 1987 Integrated System Current Power Repayment Study, that existing System rates will not satisfy cost recovery criteria specified in Department of Energy Order No. RA 6120.2 and section 5 of the Flood Control Act of 1944. The Administrator prepared a Final 1987 Integrated System Revised Power Repayment Study based on additional annual revenue of $2,814,800 beginning July 1, 1988.

The increase in annual revenue from $87,917,100 to $90,785,900 will be recovered primarily through an increase in the base energy charge for sales of Federal hydroelectric power and energy, although a slight decrease in the basic monthly demand charges and the combination of a decrease and an increase in the conditions of service charges for 69 kV and load center or below 69 kV deliveries respectively, contribute as well. Significantly increased charges for the use of SWPA's transmission system to deliver non-Federal power and energy are indicated and new alternate energy-based transmission rates have been designed for delivery of economy energy. Further, a credit, specifically designed for each customer, will apply against the purchased power adder component of the rate schedules to refund excess revenues collected in the purchased power deferral account during recent years of favorable water conditions. This credit is intended to effectively equalize each customer's average purchased power adder cost and should reduce the deferral account to a level needed to cover system purchases under one year of critical water conditions. The credit will offset the effects of the overall rate increase for the vast majority of customers, except those to which the purchased power adder does not apply who will experience an increase of about one percent in their basic 1200 hour peaking service. The total rate increase is derived about 20 percent from the basic peaking and firm service, about 45 percent from non-firm energy sales, and about 35 percent from facilities and transmission service charges.

During the 27-month effective period of the credit (July 1, 1988–September 30, 1990), customers affected by the purchased power adders, under basic peaking or the remaining firm service contracts, will experience a wide range of rate decreases dependent upon their previous statuses as either peaking or firm customers, or both, the duration of firm contracts, and whether they had collateral peaking arrangements or merely converted a firm contract directly to peaking. In addition, under the previous rates the $0.0005 credit was to terminate September 30, 1989, and the purchased power adder would have reverted to $0.002 with no credit

applicable. Consequently, with the new base purchased power adder at $0.0013, a rate decrease ranging from one to four percent for these customers is expected after the new specific credits terminate, with the larger reductions occurring for 69 kV customers whose capacity charge adjustments will have decreased substantially. The proposal also includes a provision for SWPA's Administrator, at his discretion, to adjust the purchased power adder annually up to $0.0005 per kilowatthour as necessary, without the need to submit a formal rate filing, but only requiring notification of the Federal Energy Regulatory Commission (FERC). The System rate schedules will be in effect on an interim basis through September 30, 1991, or until confirmed and approved on a final basis by the FERC.

Issued in Washington, DC, this — day of July, 1988.

Joseph F. Salgado,

Under Secretary.

The text of Rate Order No. SWPA–21 follows:

[Rate Order No. SWPA–21]

In the matter of: Southwestern Power Administration—System Rates; Order Confirming, Approving and Placing Increased Power Rates in Effect on an Interim Basis.

July 1, 1988.

Pursuant to section 302 (a) and 301 (b) of the Department of Energy Organization Act, Pub. L. 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve and place into effect such rates on an interim basis, and delegated to the Federal Energy Regulatory Commission the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a Department of Energy organizational realignment, Delegation Order No. 0204–33 was amended, effective March 19, 1981, to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy. By Delegation Order No. 0204–108, effective December 14, 1983, 48 FR 55664 (December 14, 1983) the Secretary of Energy delegated to the Deputy Secretary of Energy on a non-exclusive basis the authority to confirm, approve and place into effect on an interim basis power and transmission rates, and delegated to the Federal Energy Ragulatory Commission on an exclusive basis the authority to confirm, approve and place in effect on a final basis, or to disapprove power and transmission rates. Amendment No. 1 to Delegate Order No. 0204–108, effective May 30, 1986, 51 FR 19744 (May 30, 1986), revised the delegation of authority to confirm, approve and place into effect on an interim basis power and transmission rates by delegating such authority to the Under Secretary of Energy rather than the Deputy Secretary of Energy. This rate order is issued pursuant to the delegation to the Under Secretary of Energy.

Background

Federal Energy Regulatory Commission (FERC) confirmation and approval of the following system rate schedules was provided in FERC Docket No. ER86–4011–000 issued July 22, 1986, for the period October 1, 1985, through September 30, 1989:

Rate Schedule P–84A, Peaking Power
Rate Schedule P–84B, Peaking Power through Oklahoma Utility Companies and/or Oklahoma Municipal Power Authority
Rate Schedule F–84A, Firm Power
Rate Schedule F–84B, Firm Power through Oklahoma Utility Companies
Rate schedule TDC–82 (Revised), Transmission Service
Rate schedule IC–82, Interruptible Capacity
Rate schedule EE–82, Excess Energy.

SWPA's November 1987 Current Power Repayment Study indicated that the existing rates would not satisfy present financial criteria regarding repayment of investment in a 50-year period primarily because of projected increases in annual operating expenses for the generation and transmission facilities. The November 1987 Revised Power Repayment Study indicated that an increase in average annual revenue from the Integrated System of $3,768,100 was necessary in FY 1988 to accomplish System repayment in the required number of years. Accordingly, SWPA developed proposed system rate schedules in the November 1987 Rate Design Study based on the additional revenue requirement.

Title 10, Part 903, Subpart A of the Code of Federal Regulations, "Procedures for Public Participation in Power and Transmission Rate Adjustments," has been followed in connection with the proposed rate adjustments. More specifically, opportunities for public review and comment on proposed sytem power rates during a 90-day period were announced by notice published in the **Federal Register** November 18, 1987 (52 FR 44217). A Public Information Forum was held December 15, 1987, in Tulsa, Oklahoma, and a Public Comment Forum was held January 12, 1988, also in Tulsa. Written comments were due by February 16, 1988. On November 17, 1987, SWPA mailed a pre-publication copy of the **Federal Register** notice making copies of the proposed rate schedules and supporting data for the 1987 Power Repayment Studies available to customers and interested parties. During the comment period, interested parties reviewed SWPA's studies designed to produce an annual revenue increase of $3,768,100, or 4.3 percent to begin March 1, 1988. In addition and prior to the formal 90-day public participation process, SWPA held a number of informal meetings with customer representatives during preparation of the November 1987 Current and Revised Power Repayment Studies and Rate Design Study. SWPA personnel met informally with the Federal Power Marketing Committee (Committee) of the Southwestern Power Resources Association on two occasions at SWPA headquarters in Tulsa to explain the studies, answer questions, and consider comments and suggestions concerning development of the proposed system rates. At one of these meetings, representatives of the Corps of Engineers from the Dallas Division and Tulsa District Offices were present to discuss Corps Operation and Maintenance expense projections, estimates of major project replacement costs, and cost allocations to hydropower. Further, SWPA staff met with the Committee again following completion of the November 1987 Current and Revised Power Repayment Studies and Rate Design Study to discuss the results of these studies.

Following the conclusion of the comment period in February 1988, modification of the November 1987 Power Repayment and Rate Design Studies and the proposed Rate Schedules was begun based on formal comments received. The numerous comments presented during the formal public participation process were considered, responses developed and, where appropriate, incorporated into the studies. Once all comments had been carefully considered, the Administrator made the decision to complete the revised rate proposal. At that time another meeting was held with the

Committee to apprise SWPA's customer representatives of the status of the rate increase proposal and the Administrator's decision to pursue it. Responses to major comments are contained herein. The proposed rate schedules resulting from these changes are designed to produce ultimate average annual revenue of $90.8 million, which is an increase of $2.8 million, or 3.2 percent, over the revenue produced by the existing rates of $88.0 million.

Discussion

General

The rate schedules proposed by SWPA for implementation increase annual revenue from $87,971,100 to $90,785,900, which will satisfy cost recovery criteria outlined in Department of Energy Order No. RA 6120.2 and section 5 of the Flood Control Act of 1944, by increasing annual net revenues by $2,814,800. This amount is less than that initially proposed in November 1987 due to incorporation of several customer comments received as well as a number of significant events which had occurred during the period of public participation. The following adjustments, which had not been included in the November 1987 studies, affected the level of rate increase needed:

1. Concluded a new contractual resource agreement in December 1987 with a major area cooperative customer through which SWPA receives a guaranteed amount of capacity from the cooperative's resource surplus, for sale by SWPA in return for SWPA system energy made available to the cooperative. This arrangement enabled SWPA to sell an additional 30 MW of capacity beginning January 1, 1988, and 4 MW of capacity beginning July 1, 1988, to preference customers, increasing annual system revenues by over $900,000.

2. Used actual FY 1987 audited financial statement results in place of estimated average year financial data, including actual deferred purchase power revenue account balances, final cost allocation adjustments on seven Corps projects, etc.

3. Corrected the level of repayable investment at the Harry S. Truman Project used in the Power Repayment Studies from 48 percent to 44 percent, based on the capability of the plant to produce revenues from the capacity of two generating units declared commercially operable (rather than incremental capacity marketed in anticipation of full operation of power at Truman) and full energy production compared to the capacity of six units and full energy production.

Following are a number of other adjustments, in response to customer comment, which were made to both the Power Repayment and Rate Design Studies which had no effect on the level of system net revenue increase required:

1. Reduced SWPA's average purchase power cost per kWh based on new data published by the Energy Information Administration regarding fuel costs in the SWPA marketing area for the rate approval period.

2. Changed assumptions regarding accounting for the use and valuation of banking energy which is used to offset energy purchases, and included regular annual banking activities for standby/reserve operations which had previously understated banking activity under the assumption that they would net off.

3. Revised the purchased power adder credit from a single, general energy rate for all customers to a specific energy rate developed for each customer, which is intended to place all customers on an equal footing with regard to SWPA's future need to purchase energy by refunding to each customer amounts necessary to equalize the average purchased power adder rate per kWh paid on all energy received from SWPA.

4. Developed an alternate energy-based rate for wheeling of non-Federal economy energy utilizing interruptible capacity in SWPA's transmission system.

Included in the above adjustments are two issues of note which set this rate proposal apart from the normal. The first, and most significant, is the treatment of the Harry S. Truman Project with regard to the limitations placed on its operation by the Corps of Engineers.

Harry S. Truman Project

By way of background, construction of the Truman project began in 1961 with general completion and testing of turbines in 1981. The project was designed and constructed to have 160 MW of dependable (marketable) capacity. Due to extreme variations in water available to generate and lack of storage capacity in the project (only two feet), six generating units were installed with the ability to reverse and operate as motors and pump water back into the reservoir. The pumping enables the reservoir to be refilled as needed to maintain dependability and allow marketing of the entire capacity of all six units. Upon confirmation of turbine testing, two units were tested for motor operation of the pumps for pump storage capability. Testing proved they operated and were mechanically sound; however, a substantial fish kill occurred, resulting in a moratorium by the Corps on the future use of the pumps. The State of Missouri is opposed to the use of the pumps and to the use of more than three units of simultaneous generation when storage is in the power pool. The Corps developed a "Report on the Future Direction of Hydro Power at Harry S. Truman" (Future Direction Report), concluding that they would allow the normal use of four generating units simultaneously, and were committed to the future development of power at Truman. Consequently, by letter of February 12, 1986, from General Charles E. Dominy, Omaha Division Engineer, the Corps agreed to test the downstream impact of five and six unit generation on a planned basis, but placed an indefinite moratorium on the use of the pumps until new technology could minimize fish kills during pumping. Recent proposals have caused suspension of testing of five-unit operation, would make some of the present restrictions permanent and would impose additional limits on water release rates, velocity and fluctuations in water levels below the dam. A new operating plan is under development by the Corps.

In FY 1982, one-third of the total investment allocated to power was transferred from construction-work-in-progress to plant-in-service when SWPA declared two out of six generating units in commercial operation. However, in FY 1985, during the development of the Corps' Future Direction Report, the Corps, knowing that all six units had been tested and were mechanically functional as generators, and that two of the pumps had been tested under load and three of the pumps had been tested without load, considered the project "available for commercial operation" and determined that it was time to include the full tentative cost allocation as plant-in-service even though SWPA had not declared the additional units in commercial service. This determination followed standard Corps procedures with regard to accounting for plant-in-service. Since that time, the Corps has finalized their Future Direction Report, as referenced in General Dominy's letter, and it is now known that while all generating units (including pumps) will technically function, the moratorium on pumping and the ability to operate only four turbines at one time with only two feet of power storage substantially limits the project's dependability and marketability under present contract arrangements. According to data from the Corps' Future Direction Report, a maximum of 29.6 MW of dependable capacity (for only 280 hours of use during the critical summer period) is available. Using a more severe 600 hour

scheduling criteria, the Corps has determined only 13.8 MW is dependable. This is far less than the project's 160 MW of installed capacity which SWPA had planned to market when all units may be utilized and the pumps are available for use as designed.

Since the Corps will not allow the pumps to be used, the pumps can hardly be considered placed in-service or even "available for commercial operation," and although the generating units at the project are individually functional, they are not useable simultaneously as designed and intended, and as in the case of the pumps, cannot be considered fully operational. The Corps' decisions to forego the use of pumping capability has resulted in the loss of project dependability from a hydropower marketing standpoint; thus, the project's revenue-producing ability is significantly reduced.

DOE Order No. RA 6120.2 requires only *allocated* investment costs which are *revenue producing* (Section 12b(1)), have been declared *in commercial service* (Section 10d(2)), or which are *expected* to be *in service* within the cost evaluation period (Section 10(k), to be included as repayable investment in Power Repayment Studies, (emphasis added). These requirements are echoed in the FERC's Docket No. RM80–40–000, Order No. 382, Issued June 12, 1984, "Filing Requirements and Procedures for Approving the Rates of Federal Power Marketing Administrations," 49 FR 25235 (June 20, 1984). Section 300.11(b)(3)(ii)(A) states that all capitalized investments to be repaid from power revenues "*** are expected to produce revenue during the rate test period. Further, § 300.12(b)(2) states that "a PRS must contain *only* those investments in plant which will be *in commercial operation* during the proposed rate approval period" (emphasis added). These conditions are being met only in part due to the limitations placed on project operation which directly affect the dependable (marketable) capacity of the project. Only two units have been declared in commercial service, or are expected to be in service through the end of FY 1991, and are revenue producing. Consequently, the current allocated costs of the project have been adjusted to reflect the limit revenue-producing ability of the project with two generating units in commercial operation and marketable with full project energy production compared to its ultimate full revenue-producing capability with all six units and full energy production. The adjustment provides for about 44 percent of the allocated costs to be considered repayable investment with the remaining 56 percent deferred.

The Corps has agreed by letter dated February 4, 1988, from General Robert H. Ryan, Omaha Division Engineer, that SWPA's reduction of the repayable investment at the project is reasonable, as is the method and amount of such reduction. However, the Corps would not commit to a reduction of recorded plant-in-service at this time, prior to an official adjustment in the cost allocation or a specific policy decision directing the action, but the Corps did agree to consider SWPA's methodology in development of an interim cost allocation for the project under constrained operating conditions for use until full operations are attained.

We believe the limited operating condition of this project provides a situation analogous to that which exists when a regulator, during a rate action either determines that an asset has been impaired and, hence, disallows part of the cost of such asset for ratemaking purposes, preventing the regulated enterprise from recovering some amount of its investment, or orders a phase-in plan to defer rates intended to recover allowable costs to moderate a sudden increase in rates while providing the regulated enterprise with recovery of its investment. We believe the Statement of Financial Accounting Standards (SFAS) No. 71, as amended by Statements No. 90 and 92 to cover accounting for disallowed plant costs and phase-in plans respectively, provides a basis for accounting which tracks these ratemaking principles. Statement No. 71 is the same standard of accounting for certain types of regulation used to account for SWPA's purchase power rate component approved by the FERC in Docket No. EF83–4011–000 issued, August 1, 1983. Its application to SWPA continues to be appropriate under the same criteria used previously.

It is very important for the financial statements of the Southwestern Federal Power system to accurately and faithfully reflect the financial condition of the SWPA and Corps facilities, as well as provide a reconcilable basis for development of power repayment studies and rates for SWPA. There, subject to the approval of the FERC, we propose treatment of the non-revenue-producing portion of the Harry S. Truman Project as a disallowance or deferral. Since the asset's revenue-producing ability is impaired at this time, in accordance with SFAS 71, 90 and 92, a portion of the project investment should be deferred from plant-in-service until such time as it becomes probable that the project's revenue-producing ability will remain limited, at which time a loss should be recognized, or a final decision to use the pumps and allow full six-unit generation, as designed, is agreed upon by SWPA and the Corps. The total investment should not be considered plant-in-service until this is accomplished. We recommend that 43.94% of the allocated hydropower plant cost be identified as plant-in-service with the remaining amount to be transferred back into construction-work-in-progress.

Purchase Power Deferral Account

As indicated in the preceding section, the FERC has also approved the use of a separate purchased power adder componet in SWPA's system rates since August 1983. The resulting accounting mechanism, provided under SFAS No. 71 which tracks the matching of designated purchased power revenues to meet actual purchase power expenses incurred over an appropriate period of time, has been very successful in providing a pool of revenue to cover such expenses. However, the period since 1983 has been a period of above average water conditions and, although considerable banking activity has occurred both into and out of the account in essentially equal amounts, no direct purchases of energy have occurred. As a result, in spite of the $.0005 credit applied to the purchase power adder since October 1985 in an attempt to stop the growth of the account, the account had doubled in size to a balance of over $23 million by September 30, 1987, and has continued to increase to its present level of over $26 million.

As of July 1, 1988, SWPA will have completed the conversion of all its high load factor (firm) contract commitments to low load factor (peaking) contracts. The conclusion of this process significantly reduces SWPA's purchased energy requirements under critical low water conditions. Consequently, we believe an adequate and reasonable level of deferred revenues to maintain in the account during an extended wet cycle, or period of low account depletion such as SWPA is currently experiencing, is the amount equal to the cost of purchasing energy under the most critical conditions, or approximately $14 million.

Further, the purchased power revenues that have been deferred and accumulated in the account were based on different rates applied to peaking customers and firm customers which reflected the differing level of risk

expected to be experienced by SWPA associated with purchasing for those customers. However, since no direct purchased have been made since 1983 and all customers are now peaking customers, exposing SWPA to purchases in proportion only to their individual capacity requirements, there is no reason to maintain the larger pool or deferred revenues perviously necessary to meet higher load factor contractual obligations. A new purchase power credit has been specifically designed for each customer to flow back deferred revenues in such a way as to equalize the customer to flow back deferred revenues in such a way as to equalize the average purchased power adder rate per kWh paid by each customer. The credits will remain in effect for the 27-month period July 1, 1988, through September 30, 1990, to guarantee balancing each customer's average cost irrespective of the condition or balance of the deferral account, or the need for rate adjustment in the meantime.

This method is intended to place all customers on an equal footing with regard to the need for future SWPA purchases of energy, by refunding amounts to each customer which will bring their average purchased power adder paid on all energy received to 1.3 mills per kilowatthour, SWPA's average long-term puchased power rate requirement. It also eliminates the differential created by the earlier risk factor applied to firm power customers and automatically corrects for those situations where differing contract terms and changing or new peaking capacity allocations have occurred. It is based on each customer's maximum guaranteed level of 1200 hour peaking power puchases over the period July 1, 1988, through September 30, 1990. This period was chosen to enable SWPA to flow back the significant excess deferred purchased power revenues collected over the period August 1983 through June 1988 in as short a time period as possible to avoid exposing the account to a precipitous drop in case of an unexpected down turn in water conditions, to be able to offset the proposed rate increase in most customer situations, and to avoid having to make net cash payments to customers credits in excess of charges in months of high energy usage. However, in case such a condition may occur, the rate schedules limit the amount of applicable credit in any month to the level of total charges for SWPA services rendered and allow for any excess credit to be used in future billing periods. These credits are also proposed for applications over this 27-month period, without revocation, to insure a reasonable equalization of each customer's purchased power adder and to avoid the need for a continuous accounting of individual customer contributions to the purchase power account. Amounts of revenue in the account at any time are system revenues, entirely within the purview of SWPA. No customer is considered to have escrowed these funds, nor have any specific entitlement or ownership right in contributions to the account, although SWPA will attempt to apply purchased power adders, and credits, on a basis reasonably proportional to customer purchases of peaking power and energy. While application of this credit is assured through September 30, 1990, below average water conditions during the intervening time period may dictate an addition to the adder, but such addition would be based on the assumption that all customers are on an equal footing and would all participate in required system purchases proportionate to their purchases of peaking power.

During the time the purchased power adders and the accounting mechanism have been in place, they have proven to be effective in assuring that purchased power revenues equal purchased power costs over an appropriate period of time. The financial interests of the Government have been protected in this endeavor and the rate component has been adjusted as necesary. However, while the component may be changed as needed whenever overall system rates are revised, if an adjustment is needed when system rates prove to be otherwise adequate, a very time-consuming and expensive rate filing must be developed and submitted to merely adjust the purchased power rate component. This type of filing would seem to be unnecessary in light of the fact that the purchased power account has no effect on system repayment requirements and the separate rate component serves to provide revenues to meet perceived costs which, if they do not come to pass, are either held to meet future costs or are refunded to customers through reduced rates.

Therefore, the SWPA Administrator may adjust the purchased power adder component in SWPA's system rate schedules, P-87A, P-87B and F-87B annually by up to $.0005 per kilowatthour as he determines necessary. This flexibility will enable SWPA to react quickly to significant changes in water conditions which may have occurred during the preceding year. The maximum adjustment of $0.0005 per kilowatthour would allow SWPA to meet about 75 percent of expected needs for direct purchases of energy and nearly 50 percent of total purchased and banking energy requirements. The Administrator will advise the FERC of any such adjustments isn the purchased power adder component of SWPA's rate schedules.

Comments and Responses

The Southwestern Power Administration (SWPA) received numerous comments from customers and interested parties resulting from the public participation process. A number of these comments were accepted either in whole or in part, as noted in the earlier General Discussion section. More detailed responses to those issues are available in the Administrator's Record of Decision. A summary of the two major comments and SWPA's responses to those comments follows:

Delay or Defer Proposed Rate Increase

Comment: SWPA's proposed rate increase is not justified and should be delayed or deferred at this time. Major reasons given in support of this position are: (1) severe economic conditions in the SWPA region, (2) desire to avoid possible conflict with the National Administration and the FERC over a small rate increase, (3) concern for potential failure of SWPA's recommended methodology in supporting reduced level of proposed rate increase, and (4) the FERC's desire to enforce higher rates on SWPA than approved by DOE.

Response: SWPA's customers' concerns about pursuing a rate increase at this time, as well as strong and numerous recommendations by many to defer, or delay, any such proposals, have been considered carefully. While SWPA recognizes that economic conditions in its region have been difficult in recent years, SWPA is faced with certain statutory (1944 Flood Control Act) and regulatory (RA6120.2) requirements which limit the latitude the Administrator can exercise. SWPA remains committed to the continued financial integrity and stability of its system through the development of regular annual power repayment studies based upon average water year conditions and the implementation of indicated rate increases, preferably smaller and more frequent, in accordance with such legal and regulatory requirements. This process has been strongly supported in recent years by customers and customer organizations. It should be noted that potential legislative issues such as repayment reform and defederalization

are not a part of the President's Fiscal Year 1989 Budget Proposal, and should have no impact on approval or disapproval of an SWPA rate filing. Further, SWPA's proposes methodologies, particularly those with regard to limiting the Truman project's repayable investment, for determining the level of rate increase appear to be fully supportable and should effectively justify such reduced increase in our filing before the FERC. While the FERC has in the past expressed its concern over certain of the Department of Energy's (DOE) repayment policies (e.g., scheduled amortization and highest-interest-bearing-investment first repayment), it has consistently approved rates in accord with such DOE policies, within its approval authority specified by DOE Secretarial Order. In addition, for all practical purposes a delay in this proposed rate increase of some eight months has already occurred as a result of SWPA's effort to elicit and incorporate customer comments on the proposal. However, this delay has allowed SWPA to include Fiscal Year 1987 actual financial results rather than previously included estimates, making it possible to supplant the annual 1988 PRS. This means that the next annual PRS will be performed in 1989 and an indicated rate increase, if any, probably could not become effective before October 1, 1989.

In consideration of the above information, the relatively small increase, the delay that has already occurred in developing this rate proposal, the full customer participation, and recognition that no additional increases would likely be implemented prior to October 1989, it would be inappropriate to delay further. Therefore, the Administrator decided to propose the rate increase to the Under Secretary of Energy and to the FERC, with the new rates to become effective on July 1, 1988.

Operation, Maintenance And Replacement Projections

Comment: Corps of Engineers projections of O&M expenses and replacements are excessive, and such costs should be prudently and timely incurred at a reasonable level, and reduced and/or deferred. Lack of an effective means of oversight of these costs is frustrating and a serious weakness in SWPA's ratemaking process, leaving customers unable to question such projections, or quantify an appropriate adjustment. SWPA's O&M, GA&O and replacement estimates should be subjected to vigorous review to ensure justification and where possible, without affecting reliability, be deferred.

Response: Corps of Engineers projections of future O&M and replacement costs used in Power Repayment Studies have received wide criticism, since these elements of cost contribute signficantly to SWPA's revenue requirements. We agree that such costs should be prudently and timely incurred at reasonable levels consistent with maintaining the high level of reliability required in the utility industry. While the Corps' O&M projections have been very accurate in recent years, including FY 1987 which proved slightly below the actual expense, the perception exists that such accurancy only proves that any level of costs projected may be spent if there is no exercise of restraint or control over such costs. However, SWPA is required to repay costs as experienced and reported by the Corps, and does not exercise authority over Corps appropriations or expenses. These types of authority are exercised by the Congress and its agents. This condition does not relieve SWPA of the responsibility to review such costs for reasonableness and to keep customers well-informed by providing opportunities to meet with Corps representatives to review projections, methodology, back-up data and other information which may be of help in understanding the level of costs being experienced and projected. In this regard, SWPA will contact the Corps on behalf of customers or customer organizations on request to enable such interchange of information. SWPA has expressed both SWPA and customer concern to the Corps over rapidly increasing O&M costs and the common customer perception of lack of oversight of O&M and replacement costs. Corps project replacement estimates will be reviewed prior to SWPA's next annual power repayment study. SWPA has also agreed to a proposal by the Sam Rayburn Dam Electric Cooperative to establish an informal intergovernmental working group for the Sam Rayburn Dam to discuss issues of common interest to the Cooperative, SWPA and the Corps such as project rate information and cost allocations. If successful, this concept may serve as a model for similar arrangements with other customers in the future.

SWPA's O&M, GA&O and replacement costs have been the subject of internal review to ensure that such costs are appropriate and held to a minimum consistent with reliability, considering the age of SWPA's transmission system. Transmission replacements are the subject of a detailed study undertaken by SWPA, which will include coordination with the other power marketing administrations, to assess the accuracy and adequacy of present methods of estimating such future replacements in power repayment studies. Appropriate revisions will be incorporated in SWPA's next annual power repayment study.

In summary, while all such cost projections will continue to be reviewed, we believe that Corps projections of future O&M and replacement expenses reflect their best estimates of the actual costs to be incurred over the period 1988–1991 and beyond. Thus no adjustment in O&M projections in warranted considering the Corps' past success in projecting such costs, although replacement cost estimates will undergo a thorough evaluation. SWPA also believes its cost projections to be appropriate, but will remain alert for opportunities to save on costs and will pursue its planned, detailed study of transmission replacement estimates.

Other Issues

Other repayment and rate design issues are discussed in the Administrator's Record of Decision.

Availability of Information

Information regarding this rate proposal including studies, comments and other supporting material, is available for public review and comment in the offices of the Southwestern Power Administration, 333 West 4th, Tulsa, Oklahoma 74101.

Administrator's Certification

The 1987 Revised System Power Repayment Study indicates that the increased power rates will repay all costs of the Integrated system including amortization of the power investment consistent with the provisions of Department of Energy Order No. RA 6120.2. In accordance with Section 1 of Delegation Order No. 0204–108, the Administrator has determined that the proposed System rates are consistent with applicable law and the lowest possible rates consistent with sound business principles in accordance with section 5 of the Flood Control Act of 1944.

Environment

The environmental impact of the proposed System rates has been analyzed in consideration of the Department of Energy "Environmental Compliance Guide," the amount of the proposed increase does not warrant an Environmental Assessment or an

Environmental Impact Statement in accordance with these regulations.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm, approve and place in effect on an interim basis, effective July 1, 1988, the following SWPA System Rate Schedules which shall remain in effect on an interim basis through September 30, 1991, or until the FERC confirms and approves the rates on a final basis, to supersede the rate schedules named:

Service	Rate	Superseded rate
Peaking power	P-87A	P-84A.
Peaking power through Oklahoma utility companies and/or municipal power authority.	P-87B	P-84B.
Firm power	None	F-84A.
Firm power through Oklahoma utility companies.	F-87B	F-84B.
Transmission service	TDC-87	TDC-82 (Revised).
Interruptible capacity	IC-87	IC-82.
Excess energy	EE-87	EE-82.

Issued at Washington, DC, this 1st day of July 1988.

Joseph F. Salgado,

Under Secretary.

[FR Doc. 88-15889 Filed 7-13-88; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3413-9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and is available to the public for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: NSPS for Stationary Gas Turbines (Subpart GG)—Information Requirements. (EPA ICR #1071).

Abstract: Owners/operators of stationary gas turbines must notify EPA of constructions, modifications, startups, malfunctions, and dates and results of performance tests. They must report periods of excess SO_2 and NO_x emissions quarterly. They must maintain records of (a) the sulfur and nitrogen content of the fuel, (b) data from all tests, (c) daa from the continuous monitoring system, and (d) data on any startup, shutdown, or malfunction in the operation of the affected facility, its controls, or the monitoring systems. The States and/or EPA use the data to ensure compliance with standards, to target inspections, and, when necessary, to provide evidence in court.

Burden Statement: Public reporting burden for this collection of information is estimated to average 150 hours per year per respondent. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Owners/Operators of Stationary Gas Turbines.

Estimated No. of Respondents: 245.

Estimated Burden: 14,090 hours.

Frequency of Collection: Quarterly.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Carla Levesque, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M St. SW., Washington, DC 20460

and

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20503, (Telephone (202) 395-3084).

OMB Responses to Agency PRA Clearance Requests

EPA ICR #0160; Pesticides Report for Pesticide-Producing Establishments, was approved 6/22/88; OMB #2070-0078; expires: 6/30/91.

Date: July 7, 1988.

Paul Lapsley,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 88-15838 Filed 7-13-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3414-3]

Municipal Settlement Discussion Group

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The Municipal Settlement Discussion Group will meet in Washington, DC on August 4, 1988. The Environmental Protection Agency formed the group in order to provide a public forum for interested parties to provide input on how municipalities should fit into the Superfund settlement process. The group consists of members representing EPA, States, local governments, industry and environmental concerns. The Agency is currently developing a Municipal Settlement Policy to address issues related to notifying and bringing municipalities that are responsible parties into the Superfund settlement process.

FOR FURTHER INFORMATION CONTACT: Mary Kay Voytilla of the Environmental Protection Agency, Office of Waste Programs Enforcement (WH-527), Washington, DC 20460; telephone 202/475-8367.

Lloyd S. Guerci,

Director, CERCLA Enforcement Division.

[FR Doc. 88-15839 Filed 7-13-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of May 17, 1988

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on May 17, 1988.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests continuing strong expansion in economic activity and rising levels of resource utilization. In April, total nonfarm payroll employment rose further; the increase included sizable growth in the manufacturing sector. The civilian unemployment rate fell to 5.4 percent, down appreciably from its level at the start of the year. Growth in industrial production picked up considerably in April from a reduced pace earlier in the year. Retail sales fell appreciably last month but

[1] Copies of the Record of policy actions of the Committee for the meeting of May 17, 1988, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551.

estimates of sales in February and March were revised substantially higher. Indicators of business capital spending point to substantial gains thus far this year, notably for equipment. The nominal U.S. merchandise trade deficit in the first quarter was substantially smaller than that for the fourth quarter. Consumer and producer prices have risen more rapidly recently following a period of relatively modest increases. Broad measures of labor costs indicate a substantial advance in the first quarter, in part because of a rise in payroll taxes.

Interest rates have risen somewhat since the Committee's meeting on March 29. The trade-weighted foreign exchange value of the dollar in terms of other G–10 currencies had increased slightly on balance over the intermeeting period prior to May 17 and jumped following release of the March trade data.

M1 and M2 grew rapidly in April, owing in part to a buildup in transaction balances associated with tax payments, while M3 expanded at a slower pace than in previous months. Through April, expansion of M2 and M3 was in the upper portion of the ranges established by the Committee for 1988. Expansion in total domestic nonfinancial debt appears to be continuing at a pace close to that in 1987.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability over time, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives, the Committee at its meeting in February established growth ranges of 4 to 8 percent for both M2 and M3, measured from the fourth quarter of 1987 to the fourth quarter of 1988. The monitoring range for growth in total domestic nonfinancial debt was set at 7 to 11 percent for the year.

With respect to M1, the Committee decided in February not to establish a specific target for 1988. The behavior of this aggregate in relation to economic activity and prices has become very sensitive to changes in interest rates, among other factors, as evidenced by sharp swings in its velocity in recent years. Consequently, the appropriateness of changes in M1 this year will continue to be evaluated in the light of the behavior of its velocity, developments in the economy and financial markets, and the nature of emerging price pressures.

In the initial implementation of policy, the Committee seeks to maintain the existing degree of pressure on reserve positions. Taking account of conditions in financial markets, the strength of the business expansion, indications of inflationary pressures, developments in foreign exchange markets, and the behavior of the monetary aggregates, the Committee expects that a slight increase in the degree of pressure on reserve positions would be appropriate in the weeks ahead. Depending on further developments in these factors, somewhat greater reserve restraint would, or slightly lesser reserve restraint might, also be acceptable later in the intermeeting period. The contemplated reserve conditions are expected to be consistent with growth in M2 and M3 over the period from March through June at annual rates of about 6 to 7 percent. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 5 to 9 percent.

By order of the Federal Open Market Committee, July 8, 1988.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 88–15826 Filed 7–13–88; 8:45 am]

BILLING CODE 6210–01–M

Cenvest, 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 August 4, 1988.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Cenvest, Inc.*, Meriden, Connecticut; to acquire 100 percent of the voting shares of Meriden Trust and Safe Deposit Company, Meriden, Connecticut.

B. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *ONB Corporation*, Clifton Springs, New York; to become a bank holding company by acquiring 100 percent of the voting shares of The Ontario National Bank of Clifton Springs, Clifton Springs, New York.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Commex Financial Corporation*, Kennesaw, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Commercial Exchange Bank, Kennesaw, Georgia. Comments on this application must be received by July 29, 1988.

2. *Dahlonega Bancorp, Inc.*, Dahlonega, Georgia; to acquire 100 percent of the voting shares of First National Bank of Polk County, Copperhill, Tennessee. Comments on this application must be received by July 29, 1988.

3. *Financial Services Bancorp, Inc.*, Miami, Florida; to become a bank holding company by acquiring 82 percent of the voting shares of Eagle National Holding Company, Miami, Florida, and thereby indirectly acquire Eagle National Bank of Miami, Miami, Florida. Comments on this application must be received by July 29, 1988.

4. *Forest Bancorp*, Forest, Mississippi; to acquire 20 percent of the voting shares of Metropolitan Corporation, Biloxi, Mississippi, and thereby indirectly acquire Metropolitan National Bank, Biloxi, Mississippi. Comments on this application must be received by July 29, 1988.

5. *University National Bankshares, Inc.*, Orlando, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of University National Bank, Orlando, Florida, a *de novo* bank. Comments on this application must be received by July 29, 1988.

D. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Central West Bancorp*, Casey, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Security State Bank, Casey, Iowa. Comments on this application must be received by July 15, 1988.

2. *Jay Financial Corporation*, Portland, Indiana; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Portland, Portland, Indiana.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Clifton Bancshares, Inc.*, Wamego, Kansas; to become a bank holding company by acquiring 98.6 percent of

the voting shares of First National Bank, Clifton, Kansas.

2. *Lexington Bancshares, Inc.*, Lexington State Bank & Trust Company Trust Department, and Lexington State Bank & Trust Company Employee Stock Ownership Plan, all of Lexington, Nebraska; to acquire 53.44 percent of the voting shares of Seven V Banco, Inc., Callaway, Nebraska, and thereby indirectly acquire Seven Valleys State Bank, Callaway, Nebraska.

Board of Governors of the Federal Reserve System, July 7, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-15829 Filed 7-13-88; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has 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 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 29, 1988.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *John Sid Dinsdale,* Roy G. Dinsdale, Lynn Barclay, and Thomas Gooding; to acquire 95.31 percent of the voting shares of Morningside Development Company, Sioux City, Iowa, and thereby indirectly acquire Morningside Bank and Trust, Sioux City, Iowa.

Board of Governors of the Federal Reserve System, July 8, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-15831 Filed 7-13-88; 8:45 am]

BILLING CODE 6210-01-M

First Merchants Corp. et al.; Formations of: Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 4, 1988.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Merchants Corporation,* Muncie, Indiana; to acquire 100 percent of the voting shares of Pendleton Banking Company, Pendleton, Indiana. Comments on this application must be received by July 28, 1988.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Tri-County Bancshares, Inc.,* Linn, Kansas; to become a bank holding company by acquiring 94.4 percent of the voting shares of Linn State Bank, Linn, Kansas, which engages in the sale of credit-related and crop hail insurance in a town of less than 5,000 in population.

Board of Governors of the Federal Reserve System, July 8, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-15828 Filed 7-13-88; 8:45 am]

BILLING CODE 6210-01-M

First Wisconsin Corp. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is lised 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 August 4, 1988.

A. **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, First Wisconsin Asset Management, Inc., in acting as an investment adviser pursuant to § 225.25(b)(4) of the Board's Regulation Y.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. The Mitsui Bank, Limited, Tokyo, Japan; to engage de novo through its subsidiary, Mitsui Securities Company (U.S.A.), Inc., New York, New York, in discount securities brokerage pursuant to § 225.25(b)(15); and underwriting and dealing in obligations of the United States, general obligations of states and political subdivisions, and other obligations in which state member banks are authorized to underwrite and deal pursuant to § 225.25(b)(16) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 8, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-15830 Filed 7-13-88; 8:45 am]

BILLING CODE 6210-01-M

The Fuji Bank, Ltd., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 88-14817) published at page 25009 of the issue for Friday, July 1, 1988.

Under the Federal Reserve Bank of New York, the entry for The Fuji Bank, Limited is revised to read as follows:

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Fuji Bank, Limited,* Tokyo, Japan; to acquire 24.9 percent and assume certain subordinated debt of Kleinwort Benson Government Securities, Inc., Chicago, Illinois, and thereby engage in: (1) Underwriting and dealing in obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in under 12 U.S.C. 24 and 335, including bankers' acceptances and certificates of deposit, under the same limitations as would be applicable if the activity were performed by a bank holding company's subsidiary member banks or its subsidiary nonmember banks as if they were member banks (such obligations being "eligible securities"), pursuant to § 225.25(b)(16) and activities incidental thereto, including repurchase and reverse repurchase transactions on such securities, collaterialized borrowing and lending of such securities, clearing, settling, accouning, record keeping and other ancillary services, pursuant to § 225.21(a)(2) of the Board's Regulation Y; (2) engaging in futures, forward and options contracts on eligible securities for hedging purposes in accordance with 12 CFR 225.142; (3) providing portfolio investment advice and research and furnishing general economic information and advice, general economic statistical forecasting services and industry studies in connection with, and as an incident to, the proposed eligible securities activities, pursuant to § 225.25(b)(4)(iii) and (iv) of the Board's Regulation Y; (4) acting as a futures commission merchant ("FCM") for affiliated and nonaffiliated persons in the execution and clearance on major commodity exchanges of futures contracts and options on futures contracts on bullion, foreign exchange, government securities, certificates of deposit and other money market instruments that a bank may buy or sell in the cash market for its own account, pursuant to § 225.25(b)(18) of the Board's Regulation Y (Applicant argues that providing FCM activities to affiliates is permissible under § 225.25(b)(18) or, alternatively, permissible under sections 4(c)(1)(C) and 4(c)(8) of the BHC Act.); (5) providing investment advice including counsel, publication, writtten analyses and reports, with respect to the purchase and sale of futures contracts and options on futures contracts, pursuant to § 225.25(b)(19) of the Board's Regulation Y. Applicant has also applied for approval to acquire indirectly through the company, one percent of the voting shares of Liberty Brokerage, Inc., an inter-dealer blind broker of government securities.

Comments on this application must be received by July 25, 1988.

Board of Governors of the Federal Reserve System, July 8, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-15827 Filed 7-13-88; 8:45 am]

BILLING CODE 6210-01-M

Reid, Raymond E., et al.; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 88-13789) published at page 23153 of the issue for Monday, June 20, 1988.

Under the Federal Reserve Bank of Kansas City, the entry for Bettye Cree Reid is revised to read as follows:

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Raymond E. Reid and Bettye C. Reid,* Pampa, Texas; to acquire an additional 0.42 percent of the voting shares of American Republic Bancshares, Inc., Belen, New Mexico, and thereby indirectly acquire shares of First National Bank of Belen, Belen, New Mexico.

Comments on this notice must be received by July 29, 1988.

Board of Governors of the Federal Reserve System, July 8, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-15832 Filed 7-13-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreements To Support a Breast Cancer Control Demonstration Project; Availability of Funds for Fiscal Year 1988

Introduction

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1988 for competitive applications for cooperative agreements for the development of Breast Cancer Control Programs. The demonstration projects will address planning, development, coordination, and evaluation of programs to control breast cancer.

Background

Currently, a woman's lifetime risk of breast cancer is estimated at 10 percent. According to current estimates, in 1988 135,000 women in the U.S. will be diagnosed with invasive breast cancer, and 42,000 women will die from the disease. Breast cancer accounts for 28 percent of all newly diagnosed female cancers, and 18 percent of female cancer deaths. An examination of recent trends in breast cancer reveals an increase in both incidence and mortality. Among women it is the most common form of cancer and the leading cause of premature mortality from cancer. These figures take on particular significance because of the dynamic changes that are now taling place in the size of the population at risk. Prior to 1945 both the birth rate and the annual number of births increased, creating the post-war baby boom. This cohort of women is just now reaching age 40, the age when breast cancer incidence begins to climb sharply. In 1985 approximately 57 million women were 35 years or older, and by the year 2025, nearly 91 million women will be in that age category, an increase of 61 percent.

Authorizing Legislation

These cooperative agreements are authorized by section 317 [42 U.S.C. 247b] of the Public Health Service Act,

as amended. The Catalog of Federal Domestic Assistance Number is 13.283.

Eligible Applicants

Eligible applicants for this program are official State public health agencies, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Island, Guam, the Northern Mariana Islands, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

Purpose and Programmatic Interest

The purpose of these cooperative agreements is to promote the ability within State public health agencies to control breast cancer through the design of a State coordinated bbreast cancer screening program. The demonstration projects should address the following programmatic goals for this disease:

A. Increase physician endorsement and appropriate referral for screening mammography.

B. Develop programs for radiologists and radiology technicians to improve the quality of the screening process and mammographic interpretation, and communication with primary care providers.

C. Plan directed information and education programs to women about the importance of breast cancer screening, and the availability of breast cancer screening.

D. Plan a system to provide regular information to the medical provider community about progress in the program to control breast cancer.

E. Design a quality assurance program for mammography.

Availability of Funds

One or two cooperative agreements will be awarded under this announcment. Awards will average approximately $80,000. It is expected the cooperative agreements will begin on or about September 15, 1988. Depending on the availability of funds, it is expected that funding will be forthcoming for a second year. Funding estimates may vary and are subject to change. Projects are intended to be short term and address specific problems as noted in the Background section. Non-federal funding sources should provide greater shares of support in any later budget period.

Use of Funds

Cooperative agreement funds shall not be used for treatment or treatment services.

Program Requirements

CDC will assist the State in conducting the project. The application should be presented in a manner that demonstrates the applicant's ability to conduct the activity in a collaborative manner with CDC.

A. Recipient Activities

Due to the nature of the cooperative agreement, and the diversity of projects that may be initiated, activities may vary. However, some general activities would be expected for any applicant. These include:

1. Assess the capacity in the State for mammography.

2. Organize committees composed of primary care providers, nurses, radiologists, radiology technicians, professional and voluntary organizations, and community representatives to participate in the planning and implementation of a broad-based breast cancer screening program.

3. Organize a committee to plan a program to monitor and issure that mammography screening meets state-of-the-art criteria for quality assurance. These criteria would need to meet minimum standards set by the American College of Radiology.

4. Devise a plan to address financial barriers to breast cancer screening.

5. Devise plans for a breast cancer information and education program for women and providers and a State-coordinated breast cancer screening program. These plans should include an evaluation component. The protocols for education programs for women and providers will be due to CDC at the end of the third quarter of the first year, and the protocol for the State-coordinated breast cancer screening program will be due to CDC at the end of the third quarter of the second year.

6. Establish a project management information system for the activities of the cooperative agreement.

To the extent that the recipient engages in information collection through questionaires, survey forms, or any related means, there shall be no review of such forms or the information collection design by CDC or another Federal agency. However, recipients may request technical consultation from CDC.

B. Centers for Disease Control Activities

In addition to the financial support provided, CDC will provide assistance to the State by:

1. Assisting in the design of the education intervention for health care providers, radiologists, and radiology technicians.

2. Providing technical assistance in the design of a quality assurance program, and the evaluation component for that program.

3. Providing technical assistance in the design of a State-coordinated breast cancer screening program and the evaluation component for that program.

4. Providing assistance in data analysis for evaluation component of the breast cancer screening program.

Reporting Requirements

Reports on the progress of project activities will be due to CDC 30 days after the end of each quarter. Financial status reports must be filed no later than 90 days after the end of the budget period. Final financial status and progress reports are required no later than 90 days after the end of the project period.

Application Review and Evaluation Criteria

Applications will be reviewed and ranked with other applications, and evaluated based on the following factors:

A. Evidence of the applicant's understanding of the problem and the purpose of the cooperative agreement.

B. Consistency of the application with the stated programmatic interests of the CDC.

C. The consistency of the measurable objectives with the stated purpose of the cooperative agreement and the ability to meet the objectives and timetable within the specified period.

D. The adequacy of the applicant's plan to monitor progress toward meeting the objectives of the project.

E. The exent to which the budget is reasonable, adequately justified and consistent with the intended use of the cooperative agreement funds.

F. The applicants capability to provide the staff and resources necessary to perform and manage the project.

Application Submission and Deadline

The original and two copies of the application (PHS Form 5161) must be submitted to Henry Cassell, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305 on or before July 15, 1988. Applications received or postmarked after the above date are considered late applications.

A. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

B. *Late Applications:* Applications which do not meet the criteria in A. 1. or 2. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Other Requirements

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Availability of Complete Program Description and Application Assistance

Information on application procedures, copies of application forms and other material may be obtained from Terry Maricle, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 320, Atlanta, GA 30305, telephone (404) 842-6572 or FTS 236-6575.

Technical assistance may be obtained from the Division of Chronic Disease Control. This effort is being coordinated by Robert A. Smith, Ph.D., Division of Chronic Disease Control, Center for Environmental Health and Injury Control, Centers for Disease Control (F10), Atlanta, GA 30333, telephone (404) 488-4390 or FTS 236-4390.

Dated: July 7, 1988.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 88-15846 Filed 7-13-88; 8:45 am]

BILLING CODE 4160-18-M

Cooperative Agreements for the Prevention of Disabilities, Demonstration/Epidemiology Projects; Program Announcement and Notice of Availability of Funds for Fiscal Year 1988

Introduction

The Centers for Disease Control (CDC) announces that competitive cooperative agreement applications for Demonstration/Epidemiology Projects are being accepted for financial assistance under a Federal program for conducting and evaluating interventions to prevent disabilities. In addition, CDC is issuing a related Program Announcement (published elsewhere in this issue of the **Federal Register**) for the prevention of disabilities describing cooperative agreements for State-Based Projects.

Authority

This disabilities prevention program is authorized by Pub. L. 100-202, the Continuing Appropriation Act for Fiscal Year 1988, and section 301 of the Public Health Service Act. The Catalog of Federal Domestic Assistance Number is 13.283.

Goals and Objectives

The goal of CDC in these cooperative agreements is to reduce the incidence and/or severity of primary and secondary disabilities.

The objectives of the Demonstration/Epidemiology Project are:

- To conduct demonstration and epidemiologic projects to build a disabilities prevention information base. Projects will document: (a) The incidence, prevalence and economic impact of preventable disabilities, and/or (b) the effectiveness and costs of preventive intervention(s).

Targeted Disabilities

Disabilities prevention activities will be focused on targeted disabilities. In the first year of these cooperative agreements, the targeted disability group is secondary disabilities in persons with physical disabilities.

CDC will continue consultation with leaders in the disabilities prevention community and intends to expand this targeted disability group in subsequent years.

Cooperative Agreements for Demonstration/Epidemiology Projects

These awards will support prevention-oriented groups to document important aspects of disabilities prevention that can contribute to a national information base. These projects are expected to be completed over a one or two year period.

Although disabilities prevention activities are implemented on a local level, a national information base, in conjunction with technical assistance/technology transfer, can be used to assist States and communities in the implementation of these prevention activities.

The results of Demonstration/Epidemiology Projects must contribute to the disabilities prevention information base. These projects will be utilized when States or community groups have unique opportunities to conduct prevention projects demonstrating the effectiveness of interventions, or unique access to data bases, the analysis of which will be of value to other States and communities.

Organizations having little experience in evaluation that have ready access to clinical settings of demonstration and/or epidemiologic projects are encouraged to collaborate with academic or other groups that have such experience.

Eligible Applicants

Demonstration Epidemiology Projects

Eligible applicants for this program are public and private non-profit entities, including disabilities service organizations (such as Independent Living Centers), local health departments, other local governmental agencies including local organizational units of a State agency, voluntary agencies, universities, colleges, medical facilities, research institutions, and Federally recognized Indian Tribal Governments. Also eligible are State health departments or other official State agencies or departments.

Availability of Funds

It is anticipated that approximately $400,000 will be available for cooperative agreement awards in Fiscal Year 1988 for Demonstration/Epidemiology Projects. It is projected that awards will be at the level of $175,000 to $225,000 per year. It is estimated that two awards for such projects will be made in the first budget period.

Cooperative Activities

A. Recipient Activities

1. Implement and evaluate specified demonstration/epidemiology project activities.

2. Conduct demonstration or epidemiology projects to document the incidence, prevalence, and economic impact of preventable secondary disabilities in persons with physical disabilities, and/or to measure the effectiveness and costs of preventive intervention(s).

B. Centers for Disease Control

1. Provide on-site technical assistance in planning, operation, and evaluation of ongoing and innovative program activities.

2. Assist in improving program performance through consultation based on national program information and activities in other projects.

3. Support project staff by conducting training programs, conferences and project workshops to enhance skills and knowledge.

4. Provide medical, epidemiologic, surveillance, and public health management assistance and consultation.

Application Review and Evaluation Criteria

Applications for Demonstration/Epidemiology Projects will be reviewed and evaluated for technical merit based on the following factors:

A. The quality and consistency of the applicant's proposal with respect to the disabilities problem, program needs and purposes of the project. This specifically includes the public health importance of the problem as reflected by reducing the prevalence, severity and economic burden of the disabilities. This also includes the merits and adequacy of the methods and activities to be developed and employed to meet the project requirements.

B. The extent of the applicant's experience and performance in conducting and evaluating demonstration or epidemiology projects.

C. The adequacy of the applicant's organizational function and staffing plan to meet project objectives.

D. The specificity of measurable project tasks and the feasibility of their being accomplished in the time-frames proposed, including the explicitness of the management plan proposed.

E. The extent to which the proposed methods and sources of data to be used in the project will produce a) the information necessary to quantitate incidence, prevalence, and economic impact of preventable disabilities, and/or b) document measures of intervention effectiveness and costs. Applications that propose to document both a and b will receive no more consideration than those that propose to document either a or b alone.

F. The adequacy of the project application budget in relation to program operations, collaboration, and services.

G. The quality of the overall evaluation approaches to be used to monitor, assess, and modify as necessary cooperative agreement activities.

H. The adequacy of project facilities to provide full access to persons with disabilities and evidence that all project programs will involve and be accessible to persons with disabilities.

Other Submission and Review Requirements

Applications are not subject to review as governed by Executive Order No. 12372, Intergovernmental Review of Federal Programs. Since program evaluation may require access to personal identifiers to link relevant data sets, ongoing human subjects review is strongly recommended.

Application Submission and Deadlines

The original and two copies of the application must be submitted on Form PHS 5161–1 by August 11, 1988 to: Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, Attention: Henry S. Cassell, III, Room 321, 255 East Paces Ferry Road NE., Atlanta, Georgia 30305.

Applications forms may be obtained from the above address.

Deadlines: Applications will be considered to meet the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before deadline date, and received in time for submission to the review group. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the above criteria are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A full description of the program, including program background, goals and objectives, areas of interest, program requirements, criteria for review of applications, application forms and other materials must be obtained from: Kay Reeves, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia, 30305, telephone (404) 842–6880 or FTS 236–6880. Technical assistance may be obtained from Myron J. Adams, Jr., M.D., Center for Environmental Health and Injury Control, Centers for Disease Control, Atlanta, Georgia, 30333, telephone (404) 488–4751, or FTS 236–4751. Technical assistance is also available from the Division of Preventive Health Services, Public Health Service in the appropriate Department of Health and Human Services Regional Office.

Please note that this announcement is distinct from two other notices issued by CDC entitled "Cooperative Agreements for the Prevention of Disabilities: State-Based Projects" and "Incentive Grants for Injury Control Intervention Projects".

Awards

Awards will be made based on priority score ranking through a formal review process, availability of funds, and such other significant factors deemed necessary and appropriate by the Director, CDC.

Dated: July 7, 1988.

Robert L. Foster,

Acting Director, Office of Program Support Centers for Disease Control.

[FR Doc. 88–15851 Filed 7–13–88; 8:45 am]

BILLING CODE 4160–18–M

Cooperative Agreements for the Prevention of Disabilities, State-Based Projects; Program Announcement and Notice of Availability of Funds for Fiscal Year 1988

Introduction

The Centers for Disease Control (CDC) announces that competitive cooperative agreement applications for State-Based Projects are being accepted for financial assistance under a Federal program for conducting and evaluating interventions to prevent disabilities. In addition, CDC is issuing a related Program Announcement (published elsewhere in this issue of the **Federal Register**) for the prevention of disabilities describing cooperative agreements for Demonstration/Epidemiology Projects.

Authority

This disabilities prevention program is authorized by Pub. L. 100–202, the Continuing Appropriation Act for Fiscal Year 1988, and section 301 of the Public Health Service Act. The Catalog of Federal Domestic Assistance Number is 13.283.

Goals and Objectives

The goal of CDC in these cooperative agreements is to reduce the incidence and/or severity of primary and secondary disabilities.

The objective of the State-Based Projects are to build capacity at the State and community level:

- To coordinate disabilities prevention activities,
- To develop plans for the prevention of disabilities,
- To establish surveillance activities of targeted disability groups,
- To employ epidemiologic methods for the purpose of setting priorities for intervention activities and targeting of interventions needed to prevent disabilities, and
- To provide state-based technical assistance to community prevention activities.

Targeted Disabilities

Disabilities prevention activities will be focused on targeted primary and secondary disabilities. In the first year of these cooperative agreements, targeted disability groups are:

- Primary disabilities—developmental disabilities,
- Primary disabilities—injury disabilities from head and/or spinal cord trauma,
- Secondary disabilities—secondary disabilities in persons with physical disabilities.

CDC will continue consultation with leaders in the disabilities prevention community and intends to expand this group of targeted disabilities in subsequent years.

Cooperative Agreements for State-Based Projects

There are two types of cooperative agreements to support State-Based projects:

A. State Capacity Building Projects: These awards will support eligible State agencies to:

(1) Establish a state-based advisory body and an office of disability prevention,

(2) Develop a State Strategic Plan for the prevention of all major disabilities,

(3) Develop State Prevention Objectives and Implementation Plans for targeted disability groups including the establishment of state-based surveillance, and

(4) Develop Community Project Plans for targeted disability groups.

After one year, States with State Capacity Building Projects are expected to be in a position to compete for State Disabilities Prevention and Evaluation Projects.

B. State Disabilities Prevention and Evaluation Projects: These awards will support eligible State agencies to:

(1) Establish a State-based advisory body and an office of disability prevention to carry out planning activities noted in A, 2 through 4 above,

(2) Conduct and evaluate activities to prevent targeted disabilities in selected communities, and in addition,

(3) Conduct state-based surveillance.

State Disabilities Prevention and Evaluation Projects are expected to be in a position to compete for and be continued for a 3 to 5 year project period.

Eligible Applicants

Eligible applicants for both State Capacity Building Projects and State Disabilities Prevention and Evaluation Projects are State health departments or other official State agencies or departments deemed most appropriate by the State to lead and coordinate the State's disability prevention program. This eligibility also includes health departments or other official organizational authority (agency or instrumentality) of the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States. A number of different State agencies such as physical health, mental health, rehabilitation, and education may currently be involved in disability prevention. Involved State agencies are encouraged to develop consensus on the most appropriate lead agency for the State. Applications from more than one agency from a State will be interpreted as evidence of a lack of a coordinating focus. Eligibility for State Disabilities Prevention and Evaluation Projects is dependent on established written State Prevention Objectives and Implementation Plans for the Prevention of Disabilities including the targeted disability group which is to be included in the proposed project.

Availability of Funds

It is anticipated that approximately $2,600,000 will be available for cooperative agreement awards for State-Based Projects in Fiscal Year 1988. Estimated levels of funding, based on the type program applied for are as follows:

A. State Capacity Building Projects

It is projected that awards will be at the level of $125,000 to $175,000 per year. It is estimated that 3 to 5 such awards will be made in the first budget period.

B. State Disabilities Prevention and Evaluation Projects

It is projected that awards will be at the level of $300,000 to $400,000 per year. It is estimated that 4 to 5 such awards will be made in the first budget period.

Cooperative Activities

A. Recipient Activities

1. State Capacity Building Projects

a. Establish a State advisory body to coordinate and provide guidance for disabilities prevention in the State.

b. Establish a state-based office of disability prevention as a technical assistance resource and focus for disabilities prevention.

c. Develop a State Strategic Plan for disabilities prevention at the State level.

d. Develop or improve the State Prevention Objectives and Implementation Plans for targeted groups of major disabilities.

e. Develop surveillance activities for targeted disability groups in order to assist prevention efforts and program evaluation.

f. Promote disability prevention planning in communities.

g. Assist in the development of Community Project Plans.

2. State Disabilities Prevention and Evaluation Projects

a. Conduct activities a–g under State Capacity Building Projects.

b. Implement and evaluate specified community projects.

c. Implement state-based surveillance.

B. Centers for Disease Control

1. Provide on-site technical assistance in the planning, operation, and evaluation of ongoing and innovative program activities.

2. Assist in improving program performance through consultation based on national program information and project services in other States.

3. Support State project staff by conducting training programs, conferences and project workshops to enhance skills and knowledge.

4. Provide medical, epidemiologic, surveillance, and public health management assistance and consultation to State planning functions and capacity development.

5. Provide a focus for sharing surveillance data at the regional and/or national levels.

Application Review and Evaluation Criteria

Applications for State Capacity Building Projects and State Disabilities Prevention and Evaluation Projects will be reviewed and evaluated for technical merit based on the following factors:

A. The quality and consistency of the applicant's proposal with respect to the disabilities problem, program needs and purposes of the project. This specifically includes the public health importance of the problem as reflected by reducing the prevalence, severity and economic burden of the disabilities. This also includes the merits and adequacy of the methods and activities to be developed and employed to meet the project requirements.

B. The potential for the State planning capacity to develop a State Strategic Plan, State Prevention Objectives and Implementation Plan, and to provide technical assistance for the development of Community Project Plans to meet the disability prevention requirements of the project.

C. The extent of the applicant's experience and performance in planning for and conducting similar prevention programs.

D. The adequacy of the plan contained in the proposal for the organization and functions of the State advisory body and the office of disability prevention in conducting program activities.

E. The adequacy of the proposed technical assistance to be furnished by the office of disability prevention to support community prevention planning and implementation.

F. Evidence that the conduct of project activities will demonstrate responsiveness to the interests of persons with disabilities and their families (e.g., representation on the advisory body, in the office of disability prevention, and the planning/implementation of community projects).

G. The adequacy of the applicant's staffing plan to meet project objectives.

H. The specificity of measurable project tasks and the feasibility of their being accomplished in the time-frames proposed, including the explicitness of the management plan proposed.

I. The extent to which the proposed methods and sources of data to be used can evaluate the impact of preventive interventions.

J. The adequacy of the project application budget in relation to program operations, collaboration, and services at the State level and in the community projects including the magnitude of cost sharing or other indicators of applicant's commitment to the project.

K. The quality of the overall evaluation approaches to be used to monitor, assess, and modify as necessary cooperative agreement activities.

L. The adequacy of project facilities to provide full access to persons with disabilities and evidence that all project programs will involve and be accessible to persons with disabilities.

Other Submission and Review Requirements

Applications are not subject to review as governed by Executive Order No. 12372, Intergovernmental Review of Federal Programs. Since program evaluation may require access to personal identifiers to link relevant data sets, ongoing human subjects review is strongly recommended.

Application Submission and Deadlines

The original and two copies of the application must be submitted on Form PHS 5161-1 by August 4, 1988 to: Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, Attention: Henry S. Cassell, III, Room 321, 255 East Paces Ferry Road, NE., Atlanta, Georgia 30305.

Applications forms may be obtained from the above address.

Deadlines: Applications will be considered to meet the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before deadline date, and received in time for submission to the review group. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the above criteria are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A full description of the program, including program background, goals and objectives, areas of interest, program requirements, criteria for review of applications, application forms and other materials must be obtained from: Kay Reeves, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia, 30305, telephone (404) 842-6880 or FTS 236-6880. Technical assistance may be obtained from Myron J. Adams, Jr., M.D., Center for Environmental Health and Injury Control, Centers for Disease Control, Atlanta, Georgia, 30333, telephone (404) 488-4751, or FTS 236-4751. Technical assistance is also available from the Division of Preventive Health Services, Public Health Service in the appropriate Department of Health and Human Services Regional Office.

Please note that this announcement is distinct from two other notices issued by CDC entitled "Cooperative Agreements for the Prevention of Disabilities: Demonstration/Epidemiology Projects" and "Incentive Grants for Injury Control Intervention Projects".

Awards

Awards will be made based on priority score ranking through a formal review process, availability of funds, and such other significant factors deemed necessary and appropriate by the Director, CDC.

Dated: July 7, 1988.

Robert L. Foster,

Acting Director, Office of Programs Support, Centers for Disease Control.

[FR Doc. 15850 Filed 7-13-88; 8:45 am]

BILLING CODE 4160-18-M

Project Grants for Immunization Influenza Vaccination Demonstration Projects Program Announcement and Availability of Funds for Fiscal Year 1989

Introduction

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1989 for grants to support demonstration projects on the cost effectiveness of Medicare reimbursement for influenza vaccination.

Authority

These projects are authorized under the Public Health Service Act, section 317(k)(l) [42 U.S.C. 247b(k)(3)], as amended by the Public Health Service Amendments of 1987 (Pub. L. 100-177, approved December 1, 1987) and by section 1861(S)(10)(A) of the Social Security Act [42 U.S.C. 1395x(a)(10)(A)] as amended by Title IV, section 4071, of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203 enacted December 22, 1987). The Catalog of Federal Domestic Assistance is 13.283.

Elegible Applicants

Eligible applicants are the official public health agencies of States, political sudivisions of States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic Of Palau, the Northern Mariana Islands, American Samoa, and any other public or nonprofit private entity.

Priority will be given to those areas having an established immunization delivery program and a large Medicare eligible population base. Applications submitted by public health agencies must, at a minimum, include a plan for having private physicians and public health department clinics participate in the demonstration. Public health agencies are encouraged to also include nursing homes, hospital settings, and health maintenance organizations (HMO) in their plans.

Purpose

The purpose of this program is to assess the cost effectiveness of

furnishing influenza vaccine to Medicare beneficiaries.

Availability of Funds

Approximately $6,500,000 is available, $3,000,000 to provide financial assistance to implement the demonstration project and $3,500,000 in direct assistance vaccine to be provided in lieu of cash. Funds are available in Fiscal Year 1989 for up to 9 awards, ranging from $500,000 to $2,000,000 with an average award of $660,000. It is expected the initial budget period for these projects will be for 12 months and will begin on or about October 1, 1988. Depending upon the availability of funds, continuation of the project grants covered by this announcement are to be funded in a 12-month budget period; thus, the project period will be approximately 2 years. Funding estimates outlined above may vary and are subject to change.

Review and Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria.

1. The applicant's understanding of the purpose of the program, including assessment of the timing and potential for positive impact of the project on meeting the stated goal(s) of the program.

2. The extent to which the applicant demonstrates the ability to accomplish project goals.

3. The degree to which long- and short-term objectives are consistent with the Congressional mandate, and are specific, measurable, and time-phased.

4. The quality of plans for conducting and monitoring activities designed to meet project objectives.

5. The extent to which the proposed project adheres to the program announcement and the established demonstration design.

6. The extent to which qualified and experienced personnel are available to carry out the proposed activities of the project.

7. The potential effectiveness of the applicant's collaboration with local health departments, hospitals, medical schools, nursing homes, HMO, laboratories, and any other agencies where joint liaison efforts would enhance the success of the project.

8. The potential appropriateness and feasibility of the project and the extent to which results may be transferred to other areas.

In addition, consideration will also be given to the extent to which the budget request and proposed use of project funds are reasonable, justified, and consistent with the intended use of grant funds.

Application and Submission Deadline

The original and two copies of the application form 5161–1 must be submitted to Nancy C. Bridger, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, on or before August 12, 1988.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

A. Received on or before the deadline date, or

B. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.A. or B. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Other Review Requirements

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Where to Obtain Additional Information

Information on application procedures, copies of application forms, and other material may be obtained from Marsha Driggans, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA, 30305 (404) 842–6575 or FTS 236–6575.

Technical assistance may be obtained from Brent Shaw, Division of Immunization, Center for Prevention Services, Centers for Disease Control, Atlanta, GA 30333, (404) 639–1857 or FTS 236–1857.

Questions about demonstration design or Medicare issues should be directed to: The Ambulatory Services Branch, Office of Research and Demonstration, Health Care Financing Administration, 2603 Oak Meadows Building, 6325 Security Boulevard, Baltimore, MD 21207, (301) 966–6617 or FTS 646–6617.

Dated: July 7, 1988.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 88–15854 Filed 7–13–88; 8:45 am]

BILLING CODE 4160–18–M

Surveillance of Cumulative Trauma Disorders (CTDs) of the Upper Extremities With Emphasis on the Wrist; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Date: July 14, 1988
Time: 9:00 a.m. to 3:00 p.m.
Place: NIOSH Alice Hamilton Laboratory, Conference Room A, 5555 Ridge Avenue, Cincinnati, Ohio
Purpose: To review a project protocol, "Surveillance of Cumulative Trauma Disorders (CTDs) of the Upper Extremities with Emphasis on the Wrist."
Additional information may be obtained from: Shiro Tanaka, M.D., DHHS, PHS, CDC, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Mail Stop R–16, Cincinnati, Ohio 45226, TELEPHONES: FTS: 684–4481, Commercial: (513) 841–4481

Dated: July 11, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88–15949 Filed 7–12–88; 2:40 pm]

BILLING CODE 4160–19–M

Food and Drug Administration

[Docket No. 88E–0225]

Determination of Regulatory Review Period for Purposes of Patent Extension, AXID®

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Axid® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce,

for the extension of a patent which claims that human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrea E. Chamblee, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Axid® (nizatidine) which is indicated for up to 8 weeks for the treatment of active duodenal ulcer. In most patients, the ulcer will heal within 4 weeks. Axid® is indicated for maintenance therapy for duodenal ulcer patients, at a reduced dosage of 150 mg h.s. after healing of an active duodenal ulcer. The consequences of continuous therapy with Axid® for longer than one year are not known.

Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Axid® (U.S. Patent No. 4,375,547) from Eli Lilly and Co., and requested FDA's assistance in determining the patent's eligibility for patent term restoration. FDA, in a letter dated June 15, 1988, advised the Patent and Trademark Office that the human drug product had undergone a regulatory review period and that the active ingredient, nizatidine, represented the first permitted marketing or use of that active ingredient. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Axid® is 2,436 days. Of this time, 1,737 days occurred during the testing phase of the regulatory review period, while 699 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* August 13, 1981. FDA has verified the applicant's claim that August 13, 1981 is the effective date of the first investigational new drug application related to the approved product (IND 18–975).

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* May 15, 1986. FDA has verified the applicant's claim that the new drug application for the product (NDA 19–508) was initially submitted on May 15, 1986.

3. *The date the application was approved:* April 12, 1988. FDA has verified the applicant's claim that NDA 19–508 was approved on April 12, 1988.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calcylations of the actual period for patent extension. In its application for patent extension, this applicant seeks 730 days of patent term extension.

Anyone with knowlege that any of the dates as published is incorrect may, on or before September 12, 1988, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 10, 1989, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 6, 1988.

Allen B. Duncan,

Acting Associate Commissioner for Health Affairs.

[FR Doc. 88–15821 Filed 7–13–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88M–0222]

Diagnostic Products Corp.; Premarket Approval of Double Antibody AFP To Aid in the Management of Testicular Cancer

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Diagnostic Products Corp., Los Angeles, CA, for premarket approval, under the Medical Device Amendments of 1976, of the Double Antibody AFP to aid in the management of testicular cancer. After reviewing the recommendation of the Immunology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of May 31, 1988, of the approval of the application.

DATE: Petitions for administrative review by August 15, 1988.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: S.K. Vadlamudi, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

SUPPLEMENTARY INFORMATION: On October 26, 1987, Diagnostic Products Corp., Los Angeles, CA 90045, submitted to CDRH an application for premarket approval of the Double Antibody AFP to aid in the management of testicular cancer. The device is an ^{125}I radioimmunoassay indicated for the

quantitative serial measurement of alpha-fetoprotein (AFP) in human serum, EDTA plasma, and heparinized plasma to aid in the management of patients with nonseminomatous testicular cancer.

On March 21, 1988, the Immunology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On May 31, 1988, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact S.K. Vadlamudi (HFZ–440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 15, 1988, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: July 6, 1988.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88–15817 Filed 7–13–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88M–0221]

Boehringer Mannheim Diagnostics Division; Premarket Approval of Enzymun-Test® CEA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Boehringer Mannheim Diagnostics Division, Indianapolis, IN, for premarket approval, under the Medical Device Amendments of 1976, of the Enzymun-Test® CEA. After reviewing the recommendation of the Immunology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of May 31, 1988, of the approval of the application.

DATE: Petitions for administrative review by August 15, 1988.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: S.K. Vadlamudi, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

SUPPLEMENTARY INFORMATION: On December 1, 1986, Boehringer Mannheim Diagnostics Division, Indianapolis, IN 46250–0100, submitted to CDRH an application for premarket approval of the Enzymun-Test® CEA. The device is an enzyme immunoassay (immunoenzymetric assay) indicated for the quantitative measurement of carcinoembryonic antigen (CEA) in human serum to be used as an aid in the management of cancer patients in whom changing concentrations of CEA are observed. It is for use on Boehringer Mannheim Diagnostics' Automated Immunoassay Systems: Enzymun-Test® System ES 22® and ES–600™ Immunoassay System.

On June 29 and 30, 1987, the Immunology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On May 31, 1988, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact S.K. Vadlamudi (HFZ–440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the reivew to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 15, 1988, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: July 6, 1988.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88–15818 Filed 7–13–88; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Subcommittee of the Arthritis Advisory Committee

Date, time, and place. August 1, 1988, 8:30 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4 p.m.; David F. Hersey, Center for Drug Evaluation and Research, (HFD–9), Food and Drug Administration, 5600 Fishers Land, Rockville, MD 20857, 301–443–4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in arthritis and related disease.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should notify the committee contact person.

Open committee discussion. The subcommittee will discuss: (1) Several proposals for changing the labeling of nonsteroidal anti-inflammatory drugs and review recent responses and discussions among the Pharmaceutical Manufacturers Association, FDA, and company representatives on such labeling, (2) approaches to improving adverse drug reaction identification and reporting, (3) status of discussions between FDA and company representatives on possible labeling changes for Clinoril (sulindac), based on questions raised at the May 16 and 17, 1988, advisory committee meeting, and (4) the final labeling for Voltaren (diclofenac) upon which the FDA and the company have reached agreement; a followup to the meeting of May 16 and 17, 1988. The report of the subcommittee meeting will be sent to the full advisory committee for comment.

Microbioiogy Devices Panel

Date, time, and place. August 2, 1988, 9 a.m., Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Joseph L. Hackett, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 8757 Geogria Ave., Silver Spring, MD 20910, 301–427–7550.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the committee contact person before July 22, 1988, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for an over-the-counter Group A Streptococcus detection device.

Obstetrics-Gynecology Devices Panel

Date, time, and place. August 29, 1988, 9 a.m., Conference Rm. E. Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857.

Type of meeting and contact person. Open public hearing, 9 a.m. to 12 m.; open committee discussion, 1 p.m. to 5 p.m.; Colin M. Pollard, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before August 12, 1988, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the safety and effectiveness of diagnostic Doppler ultrasound medical devices used for fetal evaluation.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public

advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session my ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: July 8, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–15820 Filed 7–13–88; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: LOS ANGELES DISTRICT OFFICE, chaired by George J. Gerstenberg, District Director. The topics to be discussed are ethnic foods, new drug development, and health fraud.

DATE: Friday, August 5, 1988, 9 a.m. to 12 m.

ADDRESS: Asian Community Service Center, 14112 South Kinsley Dr., Gardena, CA 90247.

FOR FURTHER INFORMATION CONTACT: Gordon L. Scott, Consumer Affairs Officer, Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015, 213–252–7597.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: July 8, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–15819 Filed 7–13–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88M–0205]

Biosonics; Premarket Approval of the SALITRON™ System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Biosonics, Inc., Mount Laurel, NJ, for premarket approval, under the Medical Devices Amendments of 1976, of the SALITRON™ System used to stimulate salivary production from existing glandular tissue. After reviewing the recommendation of the Dental Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of May 17, 1988, of the approval of the application.

DATE: Petitions for administrative review by August 15, 1988.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gregory Singleton, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: On March 27, 1987, Biosonics, Inc., Mount Laurel, NJ 08054, submitted to CDRH an application for premarket approval of the SALITRON™ System. The SALITRON™ System is indicated for use in patients with xerostomia, secondary to Sjogren's Syndrome. The device is intended to stimulate salivary production from existing glandular tissue.

The SALITRON™ System is intended for use by the physician to screen patients for response to electrostimulation prior to prescribing the system to the patient. The SALITRON™ System is intended for use by the patient three times per day to stimulate increased salivation.

On August 27, 1987, the Dental Devices Panel, and FDA advisory committee, reviewed and recommended approval of the application. On May 17, 1988, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CRH—contact Gregory Singleton (HFZ–470), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be

in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 15, 1988, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: July 1, 1988.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88–15853 Filed 7–13–88; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), **Federal Register**, Vol. 53, No. 47, pg. 7803, dated Thursday, March 10, 1988) is amended to reflect technical revisions to the recently approved functional statements in order to better describe the duties being performed.

The specific changes to Part F. are described below:

• Section F.20.A.2. is revised to reflect technical corrections concerning jurisdiction determination by the Board. The new section now reads as follows:

2. Jurisdiction and Case Management Staff (FA–12)

The Jurisdiction and Case Management Staff is responsible for identifying and presenting jurisdiction problems to the Provider Reimbursement Review Board (Board) for a determination on whether the Board has jurisdiction for appeals filed under section 1878 of the Social Security Act. Upon the Board determining that jurisdiction requirements have been met, this staff is responsible for the management of the case until position papers are received or the case is withdrawn or dismissed prior to the submission of position papers.

Date: June 16, 1988.

William L. Roper,

Administrator.

[FR Doc. 88–15840 Filed 7–13–88; 8:45 am]

BILLING CODES 4120–01–M

Privacy Act of 1974; System of Records

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974 we are proposing to establish a new system of records, "Medicaid Statistical Information System, (MEDSTAT)" HHS/HCFA/OACT No. 09–70–6001. We have provided background information about the proposed system in the "supplementary information" section below. Although the Privacy Act requires only that the "routine use" portion of the system be published for comment, HCFA invites comments on all portions of this notice. See "Dates" section for comment period.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on July 7, 1988. The new system of records, including routine uses, will become effective September 6, 1988, unless HCFA receives comments which would warrant modification of the notice.

ADDRESS: The public should address comments to Richard A. DeMeo, HCFA Privacy Act Officer, Office of Management and Budget, Health Care Financing Administration, G–M–1, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Richard L. Bale, Ph.D., Director, Division of Medicaid Statistics, Health Care Financing Administration, J–1, EQ05, 6325 Security Boulevard, Baltimore, Maryland, 21207, Telephone 301–966–7911.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records collecting data under the authority of section 1902(a)(6) of the Social Security Act, which provides that "A State plan for medical assistance must provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports." We plan to create a records system using Medicaid data which would greatly improve HCFA's ability to conduct program evaluation, strengthen program management, provide higher quality care for all enrolled persons, and contain costs.

The Medicaid program pays for a large portion of personal health care expenses for the poor who are aged, blind, disabled, families with dependent children, pregnant women, and certain others. In 1986, Federal and State Medicaid expenditures were $42.3 billion for such health care. Accurate, detailed information about the characteristics of the recipients of services, types of services provided, and categories of providers is necessary to improve HCFA's ability to evaluate all aspects of the Medicaid program and provide this information to Congress, HHS employees, and employees of State governments with the need to know.

At present, HCFA relies on a variety of hard copy reports of aggregated data submitted by the individual States. These data are often inaccurate, are untimely, and provide information which is inadequate to assist HCFA in its goal of assuring that the Medicaid program provides high quality medical care at reasonable costs. A high quality, centralized, integrated method of collecting data, such as the Medicaid Statistical Information system, will provide for the more accurate and detailed data required to attain this goal.

The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose which is compatible with the purposes for which the information

was collected. Any such compatible use of data is known as a "routine use." The proposed routine uses in this system are standard routine uses included in many of HCFA's other records systems and meet the compatibility criterion of the Privacy Act. Disclosure of information under these routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: July 1, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

SYSTEM NAME

Medicaid Statistical Information System (MEDSTAT).

SECURITY CLASSIFICATION

None.

SYSTEM LOCATION

Health Care Financing Administration, 6325 Security Boulevard, Baltimore, Maryland 21207 (Contact system manager for location of magnetic computerized records.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

Persons enrolled in Medicaid in participating States.

CATEGORIES OF RECORDS IN THE SYSTEM

Medicaid enrollment records; and Paid health care claims records.

AUTHORITY OF MAINTENANCE OF THE SYSTEM

Section 1902(a)(6) of the Social Security Act (42 U.S.C. 1396a(a)(6)).

PURPOSE OF THE SYSTEM

1. To make available high quality, accurate, flexible, and timely data on the Medicaid program by collecting standardized enrollment and paid claims data that will be reported, verified, and maintained on an ongoing basis.

2. To establish a single primary source of Medicaid data at the Federal level for maintaining a single, accurate, and comprehensive Medicaid data base that can be analyzed to produce regular statistical reports; to support research of important policy, quality and effectiveness of care, and epidemiological issues; and to support detecting fraud, abuse, and waste regarding the Medicaid program.

3. To eliminate the need for special data collection efforts to obtain the data necessary to support special studies.

4. To reduce the State reporting burden by eliminating redundant reporting and the need to prepare complex, time consuming summary information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES

Disclosure may be made to:

1. A contractor for the purpose of collating, analyzing, aggregating, or otherwise refining or processing records in this system, or for developing, modifying and/or manipulating it with ADP software. Data would also be available to users incidental to consultation, programming, operation, user assistance, or maintenance for an ADP or telecommunications system containing or supporting records in the system.

2. The congressional office of an individual, in response to an inquiry from that congressional office at the request of the individual involved.

3. The Department of Justice, to a court or other tribunal, or to another party before such tribunal, when

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her capaicity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components;

Is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

4. An individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or the study of the costs of providing health care, if HCFA:

(a) Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained.

(b) Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form;

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

(3) There is reasonable probability that the objective for the use would be accomplished.

(c) Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

a. In emergency circumstances affecting the health or safety of any individual;

b. For use in another research project, under these same conditions, and with written authorization of HCFA;

c. For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit; or

d. When required by law.

(d) Secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

5. Employees of a State government for the purposes of investigating potential fraud, abuse, or waste related to the Medicaid program or for research relating to the Medicaid program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Magnetic media.

RETRIEVABILITY:

Records may be retrieved by the MEDSTAT identification number (which may be either a State-assigned identifier or a social security number.)

SAFEGUARDS:

a. Authorized Users: Only HHS employees and contract personnel whose duties require the use of the system may access the data. In addition, such HHS employees and contractor personnel are advised that the information is confidential and that criminal sanctions for unauthorized

disclosure of private information may be applied.

b. Physical Safeguards: Data tapes are stored in secured facilities and access is protected by Resource Access Control Facility (RACF) data security system. Access to data on disk is secured by using RACF, Model 204 password security, MEDSTAT system password security, file-level password security, and field-level password security.

c. Procedural Safeguards: Employees who maintain records in the system are instructed to grant regular access only to authorized users. Data stored in computers are accessed through the use of passwords known only to authorized personnel. Contractors who maintain records in the system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act.

d. Implementation Guidelines: Safeguards are implemented in accordance with all guidelines required by the Department of Health and Human Services. Safeguards for automated records have been established in accordance with the Department of Health and Human Services' automated Data Processing Manual, Part 6 "ADP System Security."

RETENTION AND DISPOSAL:

Records will be retained for 10 years after the last action on the record.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Medicaid Estimates and Statistics, Health Care Financing Administration, [-1, EQ05, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURES:

Inquiries and requests for system records should be addressed to the system manager at the address above. The requestor must specify the State, Medicaid Identifier number, date of birth, and social security number.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors must reasonably specify the information being sought. (These procedures are in accordance with Departmental Regulations (45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

Contact the system manager named above, reasonably identify the record (provide State, Medicaid identifier number, date of birth, and social security number), and specify the information to be contested. State the reason for contesting it; e.g., why the information is inaccurate, irrelevant, incomplete or not current. (These procedures are in accordance with Departmental Regulations (45 CFR 5b.7).)

RECORDS SOURCE CATEGORIES:

HCFA obtains the identifying information in this system from State Medicaid Agencies. Almost all information in the proposed system is derived from States' Medicaid Management Information Systems.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 88-15796 Filed 7-13-88; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-08-4212-11; N-35255]

Classification Termination and Opening Order, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates a Recreation and Public Purposes classification and provides for a limited opening order.

EFFECTIVE DATE: August 15, 1988.

FOR FURTHER INFORMATION CONTACT: Rodeny Harris, District Manager, Elko District Office, Bureau of Land Management, 3900 E. Idaho Street, Elko, Nevada 89801, 702-738-4071.

SUPPLEMENTARY INFORMATION: Pursuant to 43 CFR 2450.6, the Bureau of Land Management hereby terminates Recreation and Public Purposes Classification N-35255 which involves the following described lands:

Mount Diablo Meridian

T. 33 N., R. 52 E.,

Sec. 16, W½SE¼.

The area described contains 80 acres located in Elko County.

In 1982, in response to an applicatiaon by the City of Carlin, the subject lands were classified as suitable for disposal under the Recreation and Public Purposes Act (43 U.S.C. 869, 869-1 to 869-4).

The classification provided for segregation of the lands against all forms of appropriation under the public land laws, including location under the mining laws, but not the Recreation and Public Purposes Act and the mineral leasing laws. A 25-year lease was subsequently issued to the City of Carlin for sanitary landfill purposes.

The City would now like to acquire unrestricted title to the lands pursuant to section 203 of the Federal Land Policy and Management Act (43 U.S.C. 1713); therefore, they have relinquished their lease. Accordingly, the Recreation and Public Purposes classification is no longer appropriate and is hereby terminated.

At 10:00 a.m., on August 15, 1988, the lands described above will be open only to disposal pursuant to section 203 of the Federal Land Policy Management Act, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws, rules, and regulations.

Edward F. Spang,

State Director.

[FR Doc. 88-15762 Filed 7-13-88; 8:45 am]

BILLING CODE 4310-HC-M

[CO-010-08-4133-02]

Craig, CO, Advisory Council Meeting

Time and Date: August 24, 1988, 9 a.m.

Place: County Commissioners' Meeting Room, City/County Building, Rangely, Colorado.

Matters To Be Considered:

1. Effective use of the Craig District Advisory Council.
2. Federal Coal Royalties.
3. Discussion of Douglas Creek rock art.
4. Field trip to view Douglas Creek rock art sites.

Contact Person for More Information: Mary Pressley, Craig District Office, 455 Emerson Street, Craig, Colorado 81625-1129, Phone: (303) 824-8261.

Dated: July 7, 1988.

Jerry L. Kidd,

Associate District Manager.

[FR Doc. 88-15764 Filed 7-13-88; 8:45 am]

BILLING CODE 4310-JB-M

[CO-070-07-4322-10-2410]

Grand Junction District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of Grand Junction District Grazing Advisory Board.

SUMMARY: Notice is hereby given that a meeting of the Grand Junction District Grazing Advisory Board will be held on Thursday, August 18, 1988. The meeting will convene in the third floor conference room at the Bureau of Land Management Office, 764 Horizon Drive, Grand Jucntion, Colorado, at 9:00 a.m.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include: (1) Welcome and introductions; (2) election of officers; (3) minutes of the previous meeting; (4) the advisory board election process; (5) new allotment management plans; (6) coordination with the Colorado Division of Wildlife on big game seasons and numbers; (7) honor camp construction of range improvement materials; (8) future scheduling of advisory board meetings; (9) the Fish Park Pipeline Agreement; (10) status of current project work; (11) proposed 8100 project work for fiscal year 1989; (12) new advisory board project proposals; (13) public presentations; (14) arrangements for the next meeting; (15) adjournment.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:00 and 3:30 p.m. or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81506 by August 15, 1988. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) after thirty (30) days following the meeting.

Further information on the meeting may be obtained at the above address or by calling (303) 243–6552.

Bruce Conrad,

District Manager, Grand Junction District.

[FR Doc. 88–15765 Filed 7–13–88; 8:45 am]

BILLING CODE 4310-JB-M

[OR-010-08-4410-12:GP8-184]

Lakeview District Multiple use Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of change of meeting date.

SUMMARY: The Meeting scheduled for July 28, 1988 of the Lakeview District Multiple Use Advisory Council, published in the **Federal Register** June 21, 1988, has been changed to August 15, 1988.

DATE: August 15, 1988, 10:00 a.m.

ADDRESS: Lakeview District Conference Room, 1000 South Ninth, Lakeview, Oregon.

FOR FURTHER INFORMATION CONTACT: Renee Snyder, Environmental Coordinator, telephone: (503) 947–2177.

Terry H. Sodorff,

Acting District Manager.

[FR Doc. 88–15766 Filed 7–13–88; 8:45 am]

BILLING CODE 4310-33-M

[AZ-040-08-4410-02]

Notice of Meeting of the Safford District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579 and 43 CFR Part 1780, that a meeting of the Safford District Grazing Advisory Council will be held.

DATE: Friday, August 5, 1988 at 10:00 a.m.

ADDRESS: Ramada Inn, Soldiers Room, Sierra Vista, Arizona.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes the following items: Draft San Pedro Plan/EIS; Water Rights on the San Pedro; RMP update; Management update; and Business from the floor.

The meeting is open to the public. Interested persons may make oral statements to the Council between 1:30 and 2:30 p.m. or may file written statements for the Council's consideration. Anyone wishing to make an oral statement must contact the Safford District Manager by August 4, 1988. Depending upon the number of people wishing to make oral statements, a per person time limit may be considered.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

FOR FURTHER INFORMATION: Gil Esquerdo, Public Affairs Specialist, Safford District Office, 425 E. 4th St., Safford, AZ 85546. Telephone (602) 428–4040.

Meg Johnsen,

Acting District Manager.

[FR Doc. 88–15767 Filed 7–13–88; 8:45 am]

BILLING CODE 4310-32-M

[8-00153-I-LM-NM-010-GP8-0119; (NM-010-4333-12)]

Office Opening—Grants, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management has opened a new office, the Grants Field Station in Grants, New Mexico on July 1, 1988. Telephone number for the new office will be (505) 285–5041. The address is: Bureau of Land Management, 620 E. Santa Fe Avenue, Grants, New Mexico 87020.

SUPPLEMENTARY INFORMATION: For further information contact Steve Fischer, Project Coordinator, at (505) 285–5041.

Richard Fagan,

District Manager.

[FR Doc. 88–15761 Filed 7–13–88; 8:45 am]

BILLING CODE 4310-FB-M

[(AZ-050-08-4212-11, AZA-22715)]

Arizona; Yuma District Notice of Realty Action, Lease/Conveyance of Public Lands in Yuma County

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of realty action, lease/conveyance of public lands for recreation and public purposes (R&PP).

SUMMARY: The following described public lands located east of the community of Yuma, Arizona, in Yuma County, have been examined and found suitable for lease/conveyance to the Arizona Game and Fish Department for a regional office complex and are so classified under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*):

Gila and Salt River Meridian, Arizona

T. 9 S., R. 22 W.,

Sec. 1, SW¼NW¼ lying south of the B Canal, W. 294.13 feet of the W½W½ SE¼NW¼ lying south of the B Canal.

The area described contains 14.25 acres, more or less.

Lease or conveyance is consistent with BLM land use planning, would not affect any BLM programs, and would be in the public interest.

The lease/conveyance would be subject to the following conditions:

1. Provisions of the Recreation and Public Purposes Act and all applicable regulations of the Secretary of the Intericr.

2. A right-of-way thereon for ditches or canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Those rights granted to the Bureau of Reclamation under permit number AZAR–016569.

5. Those rights granted to the Department of Energy, Western Area Power Administration, under permit number AZA–16010.

6. Those rights granted to the Yuma County Board of Supervisors under permit number AZA–6297.

Upon publication of this notice in the **Federal Register**, these lands will be segregated from all forms of appropriation under any other public land laws, including the general mining laws, except for leasing under the mineral leasing laws.

On or before August 29, 1988, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the Bureau of Land Management, District Manager, Yuma District Office, 3150 Winsor Avenue, Yuma, Arizona 85365. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective September 12, 1988.

FOR FURTHER INFORMATION CONTACT: Yuma Resource Area, Yuma District at 602–726–6300.

Robert V. Abbey,

Acting District Manager.

Date: July 6, 1988.

[FR Doc. 88–15769 Filed 7–13–88; 8:45 am]

BILLING CODE 4310–32–M

[AZ–020–08–4321–01; A 20346–L]

Realty Action: Exchange of Public Lands, Pima County, AZ

BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership.

The following described public lands are being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

T. 15 S., R. 15 E.,
Sec. 15, W½SW¼, SE¼SW¼.
Containing 120 acres, more or less.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this notice will segregate the public lands, as described in this notice, 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.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Henri R. Bisson,

District Manager.

Date: July 7, 1988.

[FR Doc. 88–15770 Filed 7–13–88; 8:45 am]

BILLING CODE 4310–32–M

[SDM 57797; (MT–020–08–4212–13)]

Montana; Amended Notice of Realty Action

AGENCY: Bureau of Land Management, Miles City District, South Dakota Resource Area, Interior.

ACTION: Notice of realty action—exchange of public lands in Lawrence County, South Dakota.

SUMMARY. The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, and have been added for consideration to be used to equalize exchange land values to complete the proposed land exchange described in the original Notice of Realty Action dated August 21, 1987, **Federal Register** 52 FR 31671:

Black Hills Meridian

T. 5 N., R. 3 E.,
Sec. 27, MS2078.
Containing 9.4 acres of public land.

In exchange for these lands, the United States will acquire the following described lands from Homestake Mining Company:

Black Hills Meridian

T. 4 N., R. 3 E.,
Sec. 9, Lone Star Fraction of MS1555;
Sec. 16, Lone Star Fraction of MS1555.
Containing 10.3 acres of private land.

In the document published August 21, 1987, Volume 52, No. 162, the public land and acreage should read as follows:

Black Hills Meridian

T. 4 N., R. 3 E.,
Sec. 3, Lots 1–3, 6–10;
Sec. 3, MS1796;
Sec. 4, Lots 1–3, 5, 6, 8–10, 12–16;
Sec. 9, Lots 1–6, 11–13, 15–17;
Sec. 9, MS1557;
Sec. 10, Lots 1–5, 7–17;
Sec. 15, Lots 1, 3, 4, 6 and Tracts 72, 73.
T. 5 N., R. 3 E.,
Sec. 28, Lots 1–14;
Sec. 29, Lots 1–6, 9–12;
Sec. 29, MS1544;
Sec. 30, Lot 9;
Sec. 32, Lots 1, 4–9, 11, 12, 15–21, Tract 41;
Sec. 33, Lots 1–14, 16–30;
Sec. 34, Lots 3–7, 12–14, 18, 22;
Sec. 34, MS1696.
Containing 251.734 acres.

All other descriptions and information in the original Notice of Realty Action are still effective in this amendment.

Exchange of these lands will be subject to reservations of Homestake Mining Company for valid existing rights.

DATES: On or before August 29, 1988, interested parties may submit comments to the Bureau of Land Management at the address shown below. Any adverse comments will be evaluated by the BLM, Montana 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 for the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the exchange, including the environmental assessment and land report is available for review at the Miles City District Office, P.O. Box 940, Miles City, Montana 59301.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the surface estate described above from sale, exploration and entry under the public land laws, including the mining laws, but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976 for a period of 2 years from the date of first publication.

Date: July 6, 1988.

Sandra E. Sacher,

Associate District Manager.

[FR Doc. 88–15771 Filed 7–13–88; 8:45 am]

BILLING CODE 4310–DN–M

[NM–030–08–4212–13; NM NM69994]

An Exchange of Public Land in Dona Ana, Eddy, and Otero Counties for Private Land in Dona Ana and Hidalgo Counties, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described lands and interests therein have been determined to be suitable for disposal by exchange under section 206 of the

Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Dona Ana County

T. 23 S., R. 1 E., NMPM,
Sec. 18, lots 6–9, S½S½;
Sec. 19, all;
Sec. 20, SW¼NE¼SW¼, S½SE¼NE¼SW¼, S½NW¼SW¼, S½SW¼, S½NE¼SW¼SE¼, SW¼SW¼SE¼, N½SE¼SW¼SE¼;
Sec. 28, SW¼NW¼, SW¼;
Sec. 29, NE¼NE¼NE¼, S½NW¼NE¼NE¼, S½NE¼NW¼NE¼, NW¼NW¼NE¼, N½N½NW¼;
Sec. 30, S½;
Sec. 31, all;
Sec. 33, NW¼, NW¼SW¼.
T. 23 S., R. 1 W., NMPM,
Sec. 13, lots 7, 8, S½SE¼;
Sec. 24, E½, S½NW¼, N½SW¼;
Sec. 25, lots 6, 7, 9, 14–16, 18–23.
T. 22 S., R. 2 E., NMPM,
Sec. 10, all;
Sec. 17, NW¼.
T. 23 S., R. 2 E., NMPM,
Sec. 11, N½N½N½, S½S½N½, S½;
Sec. 12, all.
T. 24 S., R. 2 E., NMPM,
Sec. 13, lots 3, 4, 5, N½, NE¼SW¼, SE¼;
Sec. 14, lots 3, 4, 5;
Sec. 24, lots 6–9, N½NE¼, SE¼NE¼.
T. 25 S., R. 2 E., NMPM,
Sec. 34, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 35, W½SW¼, SE¼SW¼.
T. 21 S., R. 3 E., NMPM,
Sec. 28, S½SW¼;
Sec. 35, W½SW¼.
T. 22 S., R. 3 E., NMPM,
Sec. 7, NE¼SE¼.
T. 23 S., R. 3 E., NMPM,
Sec. 7, lots 1–4, E½, E½W½
Sec. 17, all;
Sec. 18, lots 1–4, E½, E½W½;
Sec. 19, lots 1–4, E½, E½W½;
Sec. 29, N½N½.
T. 26 S., R. 3 E., NMPM,
Sec. 11, lots 4–8, 10, 11, 18–25, NE¼, E½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 14, lots 4–9, 12, 13, 15–18, 26–31, 33–36, 38–40, 51, 60–62, 73, and 82.
T. 27 S., R. 3 E., NMPM,
Sec. 31, lots 1–4, E½, E½W½.
T. 28 S., R. 3 E., NMPM,
Sec. 6, lots 1–9, S½NE¼, SE¼NW¼, E½SW¼, W½SE¼.
T. 29 S., R. 3 E., NMPM,
Sec. 12, NW¼SW¼;
Sec. 13, lots 5–8, W½NE¼, S½NW¼;
Sec. 31, lots 1–6, NE¼, E½NW¼.
T. 26 S., R. 4 E., NMPM,
Sec. 19, SW¼SE¼;
Sec. 31, lots 1–6, NE¼, E½NW¼.

Otero County

T. 26 S., R. 6 E., NMPM,
Sec. 19, E½, E½W½;
Sec. 20, W½W½;
Sec. 29, N½NE¼, E½NW¼.
T. 22 S., R. 8 E., NMPM,
Sec. 34, lots 11–14.
T. 16 S., R. 9 E., NMPM,
Sec. 3, lot 4, SW¼NW¼;
Sec. 4, lot 1, SE¼NE¼, S½.
T. 15 S., R. 10 E., NMPM,
Sec. 17, E½SW¼;
Sec. 18, lots 3, 4, NE¼, E½SW¼, W½SE¼;
Sec. 19, lots 1, 2, W½NE¼, E½NW¼;
Sec. 20, NW¼, N½SW¼, NW¼SE¼;
Sec. 29, SE¼SW¼, SE¼;
Sec. 30, lot 1;
Sec. 31, lots 2, 3, 4, SE¼NW¼, E½SW¼;
Sec. 34, E½NE¼.
T. 16 S., R. 10 E., NMPM,
Sec. 5, NE¼SW¼, SE¼;
Sec. 32, N½SW¼.
T. 17 S., R. 10 E., NMPM,
Sec. 6, lot 1, S½NE¼.

Eddy County

T. 19 S., R. 24 E., NMPM,
Sec. 35, N½.
T. 23 S., R. 27 E., NMPM,
Sec. 8, SW¼.

Containing 16,256.58 acres, more or less.

In exchange for an equal value of some of the above lands, the United States proposes to acquire the following lands from The Nature Conservancy.

Dona Ana County

T. 23 S., R. 3 E., NMPM,
Sec. 1, lots 2–6, SE¼NE¼, S½NW¼, S½;
Sec. 11, lots 3, E½, lot 4, 5, 6, 7, 9, 10, NE¼, N½SE¼;
Sec. 12, all;
Sec. 13, NW¼;
Sec. 14, lots 1, 2, 3, 6–9, S½NE¼.
T. 22 S., R. 4 E., NMPM,
Sec. 31, lots 7–10, NE¼SW¼, NW¼SE¼.
T. 23 S., R. 4 E., NMPM,
Sec. 6, lots 2, 3, 7, 8;
Sec. 7, lots 1–4, SE¼NW¼, NE¼SW¼;
Sec. 18, NE¼NW¼.

Hidalgo County

T. 29 S., R. 21 W., NMPM,
Sec. 16, SW¼NE¼SW¼, S½NW¼SW¼, S½SW¼, W½SW¼SE¼;
Sec. 21, S½SE¼;
Sec. 27, S½SW¼;
Sec. 28, E½, E½W½, NW¼SW¼;
Sec. 33, N½NE¼, N½S½NE¼, SE¼SE¼NE¼, N½SW¼SW¼NE¼;
Sec. 34, NW¼, E½SW¼, E½W½SW¼, NW¼NW¼SW¼, W½SE¼.

Containing 4,166.80 acres.

DATES: Comments must be submitted on or before August 29, 1988.

ADDRESS: Comments should be sent to Bureau of Land Management, 1800 Marquess, Las Cruces District, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Marvin M. James at the address above or at 505–525–8228 (FTS 571–8350).

SUPPLEMENTARY INFORMATION: The land to be transferred will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. Mineral resources that have potential for oil and gas, and geothermal and related rights shall be reserved to the United States together with the right to prospect for, mine and remove the minerals.

3. All valid existing rights and reservations of record. The purpose of this exchange is to acquire an inholding of private land in an area designated by BLM as the Organ Mountains Recreation Lands and lands for bighorn sheep habitat in the Peloncillo Mountains for public land that has been identified for disposal in the BLM's planning process. The exchange is in accord with BLM's approved resource management plans.

Publication of this Notice in the **Federal Register** will segregate the public land from all appropriations under the public land laws, including the mining laws but not mineral leasing laws. This segregation will terminate upon the issuance of patent or 2 years from the date of publication of this Notice in the **Federal Register** or upon publication of a Notice of Termination.

Any adverse comments will be evaluated and a decision issued by the appropriate authorized officer. In the absence of any objection, this realty action will become the final determination of the Department of the Interior.

Robert R. Calkins,

Associate.

July 7, 1988.

[FR Doc. 88–15772 Filed 7–13–88; 8:45 am]

BILLING CODE 4310–FB–M

[Co–010–08–7150–09]

Supplemental Draft Environmental Impact Statement for the Muddy Creek Reservoir Right-of-Way Application; Resource Management Plans, etc.: Kremmling Resource Area, CO

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Revised notice of intent to prepare an Environmental Impact Statement (EIS) for the Muddy Creek Reservoir Right-of-Way application and notice of intent to amend the Kremmling Resource Management Plan.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the U.S. Department of Agriculture, Forest Service and the U.S. Department of the Interior, Bureau of Land Management will prepare a Supplemental Draft (EIS) for a proposal from the Colorado River Water Conservation District (CRWCD) to construct and operate a reservoir on Rock Creek, located on the Yampa Ranger District of the Routt National Forest, Routt County, Colorado. An

alternative site is located on Muddy Creek, on private lands and Public Lands administered by the Kremmling Resource Area of the Craig District of the Bureau of Land Management, Grand County, Colorado.

The original Notice of Intent appeared in **Federal Register**, Volume 50, Number 143 on July 25, 1985 on Page 30287. A Draft EIS (Agency Number: 02-11-87-02) was prepared and filed with the Environmental Protection Agency. The Notice of Availability of the Draft Environmental Impact Statement (DEIS) appeared in the **Federal Register**, Volume 52, Number 175, on Septemer 4, 1987 on page 33636.

A Supplemental DEIS will be prepared, pursuant to the provisions of 40 CFR 1502.9(c) for the following reasons:

(1) Subsequent to filing the DEIS, the CRWCD requested that an alternative be considered increasing the size of the Muddy Creek Reservoir from 47,000 acre feet to 60,000 acre feet.

(2) The USDI Bureau of Land Management, a Cooperating Agency in the preparation of the Draft EIS, will assume the role of Joint Lead Agency in the subsequent preparation of the Supplemental EIS and Final EIS.

(3) The Preferred Alternative, which did not appear in the Draft EIS, will appear in the Supplemenal Draft EIS.

(4) The permitting of the Rock Creek Alternative would require an amendment to the Routt National Forest Land and Resource Management Plan (Forest Plan) pursuant to 36 CFR 219.10(f).

(5) The permitting of the Muddy Creek Alternative would require an amendment to the Kremmling Resource Area Resource Management Plan (RMP) pursuant to 43 CFR 1610.5-5.

The proposed amendment to the Kremmling Resource Management Plan would change approximately 1740 acres of livestock grazing, 30 acres of wildlife habitat and 1.1 miles of water quality management priorities to the recreation management priority category to accommodate recreational use at the Muddy Creek Reservoir should the reservoir be constructed. Approximately 1080 acres of Visual Resource Mangement (VRM) Class II and 400 acres of VRM Class III would be changed to VRM Class IV. The amendment would also change the visual resource management decision in the approved Resource Management Plan to make it consistent with current policy.

DATES: Written comments on the planning criteria to be utilized to determine if the Kremmling Resource Management Plan should be amended will be accepted on or before August 15, 1988. The preliminary criteria to be used include:

A. Section 501 of the Federal Land Policy and Management Act provides that rights-of-way for reservoir use may be used for public lands when the affected lands are found suitable for such use.

B. 43 CFR 1610.3-2 provides that amendments to Resource Management Plans shall be consistent with the plans, programs and policies of other affected federal, state and local agencies to the extent that federal laws allow.

C. Public lands will be considered suitable for reservoir use if the adverse impacts to existing uses and resources are found to be less than the positive impacts expected to occur.

ADDRESS: Written comments should be addressed to: David Harr, Project Coordinator, Bureau of Land Management, Kremmling Resource Area, P.O. Box 68, Kremmling, Colorado 80459; telephone (303) 724-3437.

FOR FURTHER INFORMATION CONTACT: David Harr, Bureau of Land Management, Kremmling Resource Area, Kremmling, Colorado 80459; telephone (303) 724-3437.

SUPPLEMENTARY INFORMATION: This document will be prepared and reviewed by an interdisciplinary team which includes specialists in the fields of soil science, hydrology, civil engineering, range science, wildlife, visual resource management, recreation management, economics and other disciplines as needed.

The USDI Bureau of Reclamation and Fish and Wildlife Service, the US Army Corps of Engineers, and the Colorado Division of Wildlife are cooperating agencies in the preparation of this EIS.

Gary E. Cargill, Regional Forester, Rocky Mountain Region, USDA Forest Service, is the responsible official for authorizing easements on National Forest System Lands.

Jerry E. Schmidt, Forest Supervisor, Routt National Forest, USDA Forest Service is the responsible official for amending the Routt Forest Plan.

Neil F. Morck, Colorado State Director, USDI Bureau of Land Management is the responsible official for amending the Kremmling Area RMP.

William Pulford, Distict Manager, USDI Bureau of Land Management, Craig District Office is the responsible official for authorizing rights-of-way on Public Lands within the Bureau of Land Management, Craig District.

The Supplemental DEIS is expected to be completed in August of 1988 and ready for public review. The Final EIS is scheduled to be completed by January of 1989.

Date: July 8, 1988.

William J. Pulford,

District Manager.

[FR Doc. 88-15763 Filed 7-13-88; 8:45 am]

BILLING CODE 4310-JB-M

[CO-942-08-4520-12]

Colorado; Filing of Plats of Survey

July 7, 1988.

The plat of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., July 7, 1988.

The plat representing the dependent resurvey of portions of the subdivisional lines and certain tracts, and the survey of the north and south center line of section 1, T. 9 N., R. 86 W., Sixth Principal Meridian, Colorado, Group No. 805, was accepted June 22, 1988.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 88-15773 Filed 7-13-88; 8:45 am]

BILLING CODE 4310-JB-M

[NV-930-08-4212-22]

Filing of Plats of Survey; Nevada

July 6, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local Government officials of the latest filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filings are effective of 10:00 a.m. on dates shown below.

FOR FURTHER INFORMATION CONTACT: Lacel Bland, Chief, Branch of Cadastral Survey, Nevada State Office, Bureau of Land Management, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702-784-5484.

SUPPLEMENTARY INFORMATION: The Plats of Survey of lands described below will be officially filed at the Nevada State

Office, Reno, Nevada, effective at 10:00 a.m., on August 29, 1988:

Mount Diablo Meridian

T. 12 N., R. 68 E.
T. 13 N., R. 68 E.

The plat for Township 12 North, Range 68 East, representing the dependent resurvey of Mineral Survey Nos. 37, 40, and a portion of 4289 and monumentation of certain corners of Mineral Survey Nos. 38 and 39 and the survey of a portion of the south and north boundaries, a portion of the subdivisional lines, the subdivision of certain sections and a traverse through sections 26 and 36 of Township 12 North, Range 68 East, was accepted May 23, 1988.

The area surveyed within Township 12 North, Range 68 East, is steep rocky mountainous terrain including Highland Ridge and the western slope of the Snake Mountain Range. The elevation ranges from about 8,000 to 12,000 ft. above sea level.

The area is drained by numerous creeks and small streams which flow westerly into Spring Valley.

The soil is composed of rocky and clay loam. This supports a medium to heavy growth of timber which consists of mountain mahogany, aspen, subalpine and Douglas fir, limber pine, bristlecone pine and spruce. The undergrowth consists of ceanothus, Brigham tea, buckbrush, chockecherry, rosebush, serviceberry, sagebrush, and native grass.

Mining activity was present in sections 11, 14, 15, 22, and 23. No other mining deposits of value were noted.

The plat for Township 13 North, Range 68, East, representing the survey of a portion of the subdivisional lines and a traverse through section 4 of Township 13 North, Range 68 East, was accepted May 23, 1988.

The area surveyed within Township 13 North, Range 68 East, is steep mountainous terrain on the western slope of Highland Ridge in the Snake Mountain Range. The elevation ranges from about 8,200 to 10,000 ft. above sea level.

The area is drained by numerous creeks and small streams which flow westerly into Spring Valley.

The soil is composed of rocky and clay loam. This area supports a medium growth of timber which consists of mountain manhogany, aspen, subalpine and Douglas fir, pinon pine, bristlecone pine and spruce timber. The undergrowth consists of ceanothus, Brighan tea, buckbrush, chokecherry, rosebush, serviceberry, sagebrush, and native grass.

Mining activity was present in sections 28, 29, and 33. No other mining deposits of value were noted. Currently, the principal users of the township are sheepherders.

Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable land laws, the following described lands which are located with the Humboldt National Forest will be open at 10:00 a.m. on August 29, 1988, to such forms of dispositions as may by law be made of national forests lands.

Mount Diablo Meridian

T. 12 N., R. 68 E.,
Sec. 3, lots 3, 4, S½NW¼, SW¼;
Sec. 10, W½;
Sec. 14, lots 2, 3, 4, 5, 6;
Sec. 15, lots 1, 2, N½, N½SW¼, SW¼ SW¼;
Sec. 22, lots 1, 2, 3, 4, NW¼NW¼; NE¼ SW¼, S½SW¼;
Sec. 36, lots 1, 2, 3, 4, SW¼NW¼; SW¼.
T. 13 N., R. 68 E.,
Sec. 4, lots 1, 2, 3, 4, NW¼NE¼, NW¼, NW¼SW¼.

The lands described above have been and continue to to open to mining location and mineral leasing.

Subject to valid existing rights, the following described lands which are located within the Great Basin National Park remain closed to all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and geothermal laws.

Mount Diablo Meridian

T. 12 N., R. 68E.,
Sec. 3, lots 1, 2, S½NE¼, SE¼;
Sec. 10 E½;
Sec. 14, lots 1, 7, 8, 9, 10, 11, W½SW¼, E½ E½;
Sec. 15, lot 3, N½SE¼, SE¼S¼;
Sec. 22, E½;
Sec. 23, lots 1, 2, 3, E½NE¼, SW¼NE¼, W½NE¼, S½;
Sec. 26, lots 1, 2, 3, 4, NE¼, NE¼NW¼, NE¼SE¼;
Sec. 36, lot 5.

The following Plats of Survey which are resurveys of supplemental plats and, therefore, do not require an opening, were accepted and officially filed at the Nevada State Office, Reno, Nevada on the dates shown:

MOUNT DIABLO MERIDIAN

		Accepted	Officially filed at 10:00 a.m.
T. 10 N., R.36 E	Supplemental Plat	4/29/88	5/9/88
T. 40 N., R. 70 E	Dependent Resurvey	5/23/88	6/1/88

The surveys of Township 10 North, Range 36 East, and Township 40 North, Range 70 East, were executed to meet the administrative needs of the Bureau of Land Management. The surveys of Township 12 North, Range 68, East, and Township 13 North, Range 68 East, were executed to meet the administrative needs of the National Park Service.

All of the above listed plats are now the basic record of describing the lands for all authorized purposes. The plats will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the plats and related field notes may be furnished to the public upon payment of the appropriate fee.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 88-15774 Filed 7-13-88; 8:45 am]

BILLING CODE 4310-HC-M

[WY-940-08-4520-12]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of plats of survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 a.m., June 24, 1988.

Sixth Principal Meridian

T. 53 N., R. 70 W.

The plat representing the corrective dependent resurvey of the line between sections 3 and 10, T. 53 N., R. 70 W., Sixth Principal Meridian, Wyoming, Group No. 515, was accepted June 22, 1988.

T. 20 N., R. 88 W.

The plat representing the dependent resurvey of a portion of the Fifth Standard Parallel North, through Rs. 87 and 88 W., portions of the south and east boundaries, and the subdivisional lines, T. 20 N., R. 88 W., Sixth Principal Meridian, Wyoming Group No. 445, was accepted June 22, 1988.

T. 20 N., R. 101 W.

The plat representing the dependent resurvey of a portion of the Fifth Standard Parallel North, through R. 100 W., the Twelfth Auxiliary Meridian West, through T. 20 N., between Rs. 100 and 101 W., and the subdivisional lines, T. 20 N., R. 101 W., Sixth Principal Meridian, Wyoming , Group No. 444, was accepted June 22, 1988.

T. 21 N., R. 101 W.

The plat representing the dependent resurvey of the Fifth Standard Parallel North, through R. 101 W., the Twelfth Auxiliary Meridian West, through T. 21 N., between Rs. 100 and 101 W., the north boundary and the subdivisional lines, T. 21 N., R. 101 W., Sixth Principal Meridian, Wyoming, Group No. 444, was accepted June 22, 1988.

T. 20 N., R. 102 W.

The plat representing the dependent resurvey of the east boundary and the subdivisional lines, T. 20 N., R. 102 W., Sixth Principal Meridian, Wyoming, Group No. 444, was accepted June 22, 1988.

T. 21 N., R. 102 W.

The plat representing the dependent resurvey of the Fifth Standard Parallel North, through R. 102 W., the north and east boundaries, and a portion of the subdivisional lines, T. 21 N., R. 102 W., Sixth Principal Meridian, Wyoming, Group No. 439, was accepted June 22, 1988.

T. 20 N., R. 103 W.

The plat representing the dependent resurvey of a portion of the Fifth Standard Parallel North, through R. 103 W., the east and west boundaries and the subdivisional lines, T. 20 N., R. 103 W., Sixth Principal Meridian, Wyoming, Group No 439, ws accepted June 22, 1988.

T. 42 N., R. 108 W.

The plat representing the dependent resurvey of a portion of the Thirteenth Auxiliary Meridian West, through T. 42 N., between Rs. 108 and 109 W., a portion of the subdivisional lines and the subdivision of certain sections, T. 42 N., R. 108 W., Sixth Principal Meridian, Wyoming, Group No. 447, was accepted June 22, 1988.

These surveys were executed to meet certain administrative needs of this Bureau.

T. 36 N., R. 75 W.

The plat showing a subdivision of certain sections, T. 36 N., R. 75 W., Sixth Principal Meridian, Wyoming, was accepted June 22, 1988.

T. 37 N., R. 75 W.

The plat showing a subdivision of certain sections, T. 37 N., R. 75 W., Sixth Principal Meridian, Wyoming, was accepted June 22, 1988.

These supplemental plats were prepared to meet certain administrative needs of this Bureau.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: July 6, 1988.

Richard L. Oakes,

Chief, Branch of Cadastral Survey.

[FR Doc. 88-15775 Filed 7-13-88; 8:45 am]

BILLING CODE 4310-22-M

[CA-940-08-4220-10; CA 17454]

Proposed Withdrawal and Opportunity for Public Meeting; California

July 6, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 15 acres of public land in Lake County, to protect the ground campground at Indian Valley Reservoir. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATE: Comments and requests for a public meeting must be received by October 12, 1988.

ADDRESS: Comments and meeting requests should be sent to the California State Director, BLM, 2800 Cottage Way, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, (916) 978-4815.

SUPPLEMENTARY INFORMATION: On June 24, 1988, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Mount Diablo Meridian

T. 14 N., R. 6 W.,
Sec. 5, S½NE¼SW¼NE¼ and SE¼SW¼NE¼.

The area described contains 15 acres in Lake County.

The purpose of the proposed withdrawal is to protect the group campground at Indian Valley Reservoir.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are licenses, permits, cooperative agreements, or discretionary land-use authorizations of a temporary nature.

Nancy J. Alex,

Chief, Land Section, Branch of Adjudication and Records.

[FR Doc. 88-15776 Filed 7-13-88; 8:45 am]

BILLING CODE 4310-40-M

[NM-940-08-4220-11; NM NM 016634, NM NM 0559461, NM NM 0556981]

Proposed Continuation of Withdrawals; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes that all of portions of three separate land withdrawals continue for an additional 20 years. The lands would remain closed to mining, but have been and will remain open to mineral leasing.

DATE: Comments should be received by October 12, 1988.

ADDRESS: Comments should be sent to: BLM, New Mexico State Director, P.O. Box 1449, Santa Fe, NM 87504–1449.

FOR FURTHER INFORMATION CONTACT: Clarence Hougland, BLM, New Mexico State Office, 505–988–6554.

The Forest Service proposes that all or portions of the existing land withdrawals made by Public Land Order Nos. 1074, 4078, and 4643 be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

New Mexico Principal Meridian

Lincoln National Forest

1. NM NM 016634—Public Land Order No. 1074

Dark Canyon Lookout

T. 25 S., R. 22 E. (unsurveyed),
Sec. 31, S½NE¼SW¼, N½SE¼SW¼.

Sitting Bull Falls Recreation Area (formerly Sitting Bull Falls Campground)

T. 24 S., R. 22 E.,
Sec. 3, NW¼SW¼;
Sec. 4, NE¼SE¼.

2. NM NM 0559461—Public Land Order No. 4078

Black Cave

T. 25 S., R. 22 E. (unsurveyed),
Sec. 28, SW¼NW¼, and NW¼SW¼;
Sec. 29, SE¼NE¼ and NE¼SE¼.

Hidden Cave

T. 25 S., R. 22 E. (unsurveyed),
Sec. 29, SW¼.

Hell Below and McCollaum Caves

T. 25 S., R. 22 E. (unsurveyed),
Sec. 28, SW¼SW¼;
Sec. 29, SE¼SE¼;
Sec. 32, E½NE¼;
Sec. 33, W½NW¼.

Cottonwood Cave

T. 25 S., R. 22 E. (unsurveyed),
Sec. 31, SW¼NE¼, SE¼NW¼, N½NE¼SW¼, S½SE¼SW¼, and W½SE¼.
T. 26 S., R. 22 E.,
Sec. 6, NW¼NE¼ and NE¼NW¼.

Little Sentinel, Sentinel, and Hermit Caves

T. 26 S., R. 22 E.,
Sec. 8, SE¼NE¼ and NE¼SE¼;
Sec. 9, SW¼NW¼ and NW¼SW¼.

Lonesome Cave

T. 26 S., R. 22 E.,
Sec. 18, lots 1, 2, and E½NW¼.

3. NM NM 0556981—Public Land Order No. 4643

Guadalupe Administrative Site

T. 26 S., R. 22 E.,
Sec. 22, SE¼NW¼ and N½N½SW¼.

The areas described aggregate 1,359.37 acres in Eddy County.

The withdrawals are essential for protection of substantial capital improvements on these sites. The Forest Service requests no changes in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the New Mexico State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued, and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Monte G. Jordan,

State Director, Associate.

Dated: July 6, 1988.

[FR Doc. 88–15777 Filed 7–13–88; 8:45 am]

BILLING CODE 4310-FB-M

[ID-050-4360-10]

Idaho Emergency Closure of Public Lands, Designation Order ID-050-88-03

AGENCY: Bureau of Land Managment, Interior.

ACTION: Notice of emergency closure of public lands.

SUMMARY: Notice is hereby given that effective immediately the following public land in the Shale Butte Wilderness Study Area (WSA) are closed to all vehicle access; T. 5 S., R. 22 E.; all lands within the WSA in the S½ of Section 15; all lands within the WSA in the W½ of Section 21; and the W½ of Section 28. The approximately 665 acres affected by the closure are in the Shoshone District Monument Resource Area.

The purpose of this closure is to prevent all vehicle use on two vehicle routes in the northern part of the WSA that were subject to unauthorized blading. The impacts of the unauthorized blading are being rehabilitated in accordance with the provisions of the *Interim Management Policy and Guidelines for Lands Under Wilderness Review* (BLM Handbook 8550–1).

The authority for this closure is 43 CFR 8341.2. The closure will remain in effect until reclamation has been achieved on two vehicle routes legally described in the above paragraph.

ADDRESS: For further information about this emergency closure, contact either of the following Bureau of Land Management officials.

District Manager, Shoshone District Office, P.O. Box 2–B, Shoshone, Idaho 83352, 208–886–2206.

Area Manager, Monument Resource Area, P.O. Box 2–B, Shoshone, Idaho 83352, 208–886–2206.

K. Lynn Bennett,

District Manager.

[FR Doc. 88–15841 Filed 7–13–88; 8:45 am]

BILLING CODE 4310-GG-M

Competitive Oil and Gas Lease Sale; Alaska

ACTION: Notice of sale.

SUMMARY: The purpose of this notice is to announce that a Competitive Oil and Gas Lease Sale No. 883 will be held on September 1, 1988. The lands are offered for sale under 43 CFR Part 3120.

FOR FURTHER INFORMATION CONTACT: Kay F. Kletka, 907–271–3791, Bureau of Land Management, 701 C Street, Box 13, Anchorage, AK 99513.

SUPPLEMENTARY INFORMATION: Notice is hereby given that at 9 a.m. on September 1, 1988, certain lands in the State of Alaska containing approximately 1 million acres will be offered by oral bid to the highest responsible qualified bidders in a competitive oil and gas lease sale.

A detailed list of the parcels offered, the terms and conditions of the lease offering and how and where to bid may be obtained from the BLM, Public

Services Section, at the address shown above.

July 8, 1988.

John Santora,

Deputy State Director for Mineral Resources.

[FR Doc. 88-15768 Filed 7-13-88; 8:45 am]

BILLING CODE 4310-JA-M

[MT-930-08-4212-12; M74179]

Cancellation of Realty Action; Proposed Lease of Public Lands in Jefferson County, MT

AGENCY: Bureau of Land Management, Butte District Office; Interior.

ACTION: Cancellation of realty action; proposed lease of public lands in Jefferson County, Montana.

The Notice of Realty Action—Proposed lease of public lands in Jefferson County, Montana, published in the **Federal Register**, Vol. 53, No. 14, page 1857, on January 22, 1988, is hereby cancelled in its entirety.

The public lands were being considered for a commercial lease for a radon health mine. Comments from the Notice of Realty Action were received from the Montana Department of Health and Environmental Sciences and from the BLM Director's Office. Serious concerns over public safety and liability associated with exposure to radon gas were identified. Therefore, it was determined that the proposed lease was not a suitable use of the subject public lands.

Dated: July 6, 1988.

Gary L. Gerth,

Acting District Manager.

[FR Doc. 88-15842 Filed 7-13-88; 8:45 am]

BILLING CODE 4310-DN-M

[NM-940-08-4111-13; OK NM 52641]

Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of 43 CFR 3108.2-3, Mewbourne Oil Company petitioned for reinstatement of oil and gas lease OK NM 52641 covering the following described lands located in Ellis County, Oklahoma:

T. 18 N., R. 25 W., I.M.
Sec. 31: SW¼NE¼, SE¼SW¼.
Containing 80.00 acres.

It has been shown to my satisfaction that failure to make timely payments of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500 has been paid. Future rentals shall be at the rate of $10 per acre per year and royalties shall be at the rate of 16⅔ percent, computed on a sliding scale four percentage points greater than the competitive royalty schedule attached to the leasee. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, June 1, 1987.

Martha A. Rivera,

Chief, Adjudication Section.

Dated: July 6, 1988.

[FR Doc. 88-15891 Filed 7-13-88; 8:45 am]

BILLING CODE 4310-FB-M

[NM-940-084520-1]

New Mexico; Filing of Plat of Survey

July 5, 1988.

The plats of surveys described below were officially filed in the New Mexico State Office, Bureau of Land Management, Sante Fe, New Mexico, effective at 10:00 a.m. on the dates shown.

The survey representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, and the subdivision of sections 2, 3, 9 and 10, Township 17 South, Range 25 East, New Mexico Principal Meridian, New Mexico, executed under Group 861, filed July 5, 1988.

This survey was requested by the District Manager, Roswell District Office, Roswell, New Mexico.

The supplemental plat of a portion of section 28, was prepared to amend the erroneous acreage of 0.02 to 0.01 acres for lot 98, section 28, Township 23 North, Range 10 East, New Mexico Principal Meridian, New Mexico, filed July 5, 1988.

This plat was requested by BLM Records.

The survey representing the dependent resurvey of a portion of the subdivisional lines and the adjusted record meanders of the right bank of the Deep Fork River in section 14, the reestablishment of the 1892 left bank of the Deep Fork River in section 14, the survey of partition lines in section 14, and the survey of the 1892 medial line of the avulsad portion of the Deep Fork River in section 14, Township 14 North, Range 2 East, Indian Meridian, Oklahoma, executed under Group 52, filed July 5, 1988.

These surveys were requested by the BLM Area Manager, ORAH, Tulsa District, Oklahoma.

These plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plats may be obtained from the office upon payment of $2.50 per sheet.

John P. Bennett,

Chief, Branch of Cadastral Survey.

[FR Doc. 88-15760 Filed 7-13-88; 8:45 am]

BILLING CODE 4310-FB-M

Fish and Wildlife Service

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 (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service Clearance Officer and the OMB Interior Desk Officer, Washington, DC 20503, telephone 202-395-7340.

Title: Woodcock Wing Collection Envelope.

OMB Approval Number: 1018-0009.

Abstract: The woodcock wing collection provides data on annual recruitment to the woodcock populations, distribution and chronology of the woodcock harvest, and success of woodcock hunters. This information is used primarily by the Service, to develop annual hunting regulations. State conservation agencies, university associates and other interested parties use such data for various research and management projects.

Service Form Number: 3-156a.

Frequency: On occasion.

Description of Respondents: Individuals and households (woodcock hunters).

Estimated Completion Time: 4 minutes per response.

Annual Responses: 2,000 respondents (each respondent averages 5 responses annually).

Annual Burden Hours: 670.

Service Clearance Officer: James E. Pinkerton, 202-653-7500, Room 859

Riddell Building, U.S. Fish and Wildlife Service, Washington, DC 20240.

Date: June 22, 1988.

John G. Rogers, Jr.,

Acting Assistant Director—Refuges and Wildlife.

[FR Doc. 88–15759 Filed 7–13–88; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Development Operations Coordination Document; Cockrell Oil Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Cockrell Oil Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 6618, Block 117, East Cameron 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 Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on July 6, 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. W. Williamson; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2874.

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: July 7, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88–15778 Filed 7–13–88; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Columbia Gas

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Columbia Gas has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 2549, Block 507, West Cameron 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 Sabine Pass, Louisiana.

DATE: The subject DOCD was deemed submitted on June 30, 1988.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Mike J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: July 1, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88–15779 Filed 7–13–88; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Hall-Houston Oil Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Hall-Houston Oil Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 5739 and 5742, Blocks 22 and 34, respectively, Chandeleur Area, offshore Louisiana and Mississippi. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on July 6, 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: July 7, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-15780 Filed 7-13-88; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Walter Oil and Gas Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Walter Oil and Gas Corporation has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 9428 and 5350, Blocks 574 and 584, respectively, West Cameron 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 Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on June 30, 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: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties 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: July 1, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-15781 Filed 7-13-88; 8:45 am]

BILLING CODE 4310-01-M

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 10]

Waterways Freight Bureau, Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of show-cause proceeding.

SUMMARY: The Commission has made preliminary findings relating to the application of Waterways Freight Bureau (WFB) for approval of its collective ratemaking agreement and directed WFB to show cause: (1) Why it and its member carriers should not be directed to cease and desist from engaging in certain collective ratemaking activity; and (2) why any claimed antitrust immunity should not be revoked. The action is taken to update the record in this proceeding and resolve whether WFB has ceased operations.

DATES: WFB's response to the show-cause order is due by August 15, 1988. Comments from other parties are due by September 12, 1988. WFB's rebuttal is due by October 3, 1988.

FOR FURTHER INFORMATION CONTACT:

A. Kloze, (202) 275-7935

or

Richard B. Felder, (202) 275-7691

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

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commisison's decision. Copies are available from the Office of the Secretary, Room 2215, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 275-7428, (assistance for the hearing impaired is available through TDD Services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

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

Authority: 49 U.S.C. 11701, 10606, and 10321.]

Decided: July 5, 1988.

By the Commission Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley.

Noretta R. McGee

Secretary.

[FR Doc. 88–15656 Filed 7–13–88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act; Wellsville, OH

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on June 30, 1988, a proposed consent decree in *United States v. City of Wellsville,* Civil Action No. C87–1077Y, was lodged with the United States District Court for the Northern District of Ohio. The proposed consent decree resolves a judicial enforcement action brought by the United States against the City of Wellsville for violations of the Clean Water Act.

The proposed consent decree requires the City of Wellsville to attain and, thereafter, maintian compliance with section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), and comply with its NPDES permit. To ensure compliance with the final effluent limits, the proposed consent decree requires Wellville to make improvements at the pump station, treatment plant and sewer system. The proposed consent decree also requires Wellsville to take specific measures to ensure that the treatment plant is properly operated and maintained. Finally, the consent decree requires Wellsville to pay a civil penalty of $5,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resource Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States v. City of Wellsville,* D.J. Ref. 90–5–1–1–2801.

The proposed consent decree may be examined at the office of the United States Attorney, 1404 East Ninth Street, Cleveland, Ohio and at the office of Regional Counsel, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois.

Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.00 (10 cents per page reproduction costs) payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–15782 Filed 7–13–88; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Pursuant to the National Cooperative Research Act of 1984—International Diatomite Producers Association

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), International Diatomite Producers Association ("IDPA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to IDPA and (2) the nature and objectives of IDPA. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to IDPA, and its general areas of planned activities, are given below.

IDPA is a joint research and development venture corporation, consisting of the following members: Ceca S.A., Eagle-Picher Minerals, Inc., Grefco, Inc., Manville Corporation, Manville de France S.A./Manville Europe Corporation, Witco Corporation.

Membership in IDPA is open to all producers of diatomaceous earth, by invitation after affirmative vote of the board of directors and the members of IDPA, and the parties intend to file additional written notification disclosing all changes in membership of this project.

The principal objective of IDPA is to provide a forum for the collection, exchange and analysis of information relating to health, safety and environmental issues involving diatomaceous earth, to disseminate such information, and to stimulate cooperative research and development regarding diatomaceous earth.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 88–15878 Filed 7–13–88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Request for Applications To Conduct a Self-Employment Demonstration Project for Structurally Unemployed Workers; Extension of Period for Filing Applications

AGENCY: Employment and Training Administration, Labor.

ACTION: Extension of application period.

SUMMARY: The Omnibus Budget Reconciliation Act of 1987 includes section 9152, "Demonstration Program to Provide Self-Employment Allowances for Eligible Individuals," which requires the Secretary of Labor to carry out a self-employment demonstration project, select and enter into agreements with three States that will operate the demonstration, analyze the benefits and costs of the demonstration, and submit reports to Congress two and four years after enactment. The Department of Labor (DOL) published a **Federal Register** notice on March 1, 1988 for the purpose of requesting applications from States that would like to conduct a self-employment demonstration project under the Act pursuant to an agreement with the Department of Labor. The application period under the March 1 notice expired on May 2, 1988. The purpose of this notice is to extend the period for submitting applications for the self-employment demonstration project.

DATE: State applications to conduct a self-employment demonstration project under section 9152 of the Omnibus Budget Reconciliation Act of 1987 must be received by close of business on August 15, 1988.

ADDRESS: Send applications to the Unemployment Insurance Service, Employment and Training Administration, Room S–4231, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wyrsch, Director, Unemployment Insurance Service,

Employment and Training Administration, Room S–4231, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202–535–0600.

SUPPLEMENTARY INFORMATION: For additional information on the Three-State Self-Employment Demonstration Project authorized by the Omnibus Budget Reconciliation Act of 1987 and the procedures that States should use for submitting applications to DOL to conduct a demonstration project, please refer to the **Federal Register** notice dated March 1, 1988, 53 FR 6508. Final selection of States for the demonstration project is scheduled for August 1988.

Signed at Washington, DC, on July 7, 1988.

Roberts R. Jones,

Acting Assistant Secretary of Labor.

[FR Doc. 88–15745 Filed 7–13–88; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–88–113–C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 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 Loveridge No. 22 Mine (I.D. No. 46–01433) located in Marion County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that the pump is located along an older haulageway that is congested with major falls and severe water problems. The haulageway is ventilated with intake air and there are no effective return airways in the immediate vicinity.

3. As an alternate method, petitioner proposes that—

(a) The electric equipment would be housed in a fireproof structure, equipped with automatically closing fire doors activated by thermal devices with an activation temperature not greater than 165 degrees Fahrenheit. Such fire doors would be designed to enclose all associated electric components in a reasonably airtight enclosure in case of a fire or excessive temperature;

(b) A signal, activated by the heat sensors, would be located so that it can be seen or heard by a responsible person;

(c) The electric equipment would be protected with thermal devices, or equivalent, designed and installed to interrupt all power circuits supplying electric equipment within the fireproof structure;

(d) A suitable automatic fire suppression system would be installed and maintained in the fireproof structure;

(e) Flammable or combustible material would not be stored or be allowed to accumulate in the fireproof structure;

(f) Firefighting equipment would be provided on the outside of the fireproof structure on the intake side;

(g) The electric equipment would be examined, tested, and maintained by a qualified person. These examinations and tests would include the electric equipment, the automatically closing fire doors, the signalling system, and the automatic fire suppression system;

(h) The area enclosing the structure would be examined daily for hazardous conditions. A record of the examinations would be kept in a book on the surface; and

(i) Grounded-phase devices protecting three-phase circuits would be adjusted to remove incoming power at not more than 40 percent of the available ground fault current.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 527, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 15, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances

Date: July 7, 1988.

[FR Doc. 88–15741 Filed 7–13–88; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–88–109–C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Amonate No. 31 Mine (I.D. No. 46–04421) located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used is intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use air in the belt entry to ventilate active working places as follows:

(a) The belt conveyor entry would be examined at least once during each coal producing shift while persons are working. Examinations would be conducted at intervals that would provide the most effective examinations of the entry;

(b) The requirement for "Fire Protection" would be strictly followed as it pertains to water lines, fire hoses, fire suppression systems, warning devices, and flame-resistant belting;

(c) An early warning fire detection system would be installed. A low-level carbon monoxide system would be installed in all belt entiries utilized as intake aircourses, and at each belt drive and tailpiece. The low-level CO system would be capable of giving warning of a fire for four hours should the power fail; a visual alert signal would be activated when the CO level is 10 ppm above the ambient level and an audible signal would sound at 15 ppm above the established ambient level for the mine. All persons would be withdrawn to a safe area at 10 ppm and evacuated at 15 ppm. The CO monitoring system would intiate the fire alarm signals at a central location on the surface where a responsible person is always on duty when miners are underground. This person would have two-way communication with all working sections; and would notify all working sections and other personnel who may be endangered, when the established alert and alarm levels are reached. The CO monitoring system would be capable of identifying any activated sensor and

monitoring electrical continuity and detecting electrical malfunctions;

(d) The CO monitoring system would be examined visually at least once each shift when belts are in operation and tested for functional operation weekly to ensure the monitoring system is functioning properly. The monitoring system would be calibrated with known concentrations of CO and air mixtures monthly;

(e) 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 hand-held CO detection devices;

(f) The details for the fire detection system including, but not limited to, type of monitor, sensor location, alarm system, maintenance and calibration schedule would be included as a part of the Ventilation System and Methane and Dust Control Plan;

(g) The concentration of respirable dust would be determined by establishing a designated area in the mine's Ventilation Plan, with specific sampling locations that is always within 200 feet outby the working face of the section in the intake airways; and

(h) The permanent stoppings separating the conveyor belt entiries from the intake escapeways would be specifically approved in the Ventilation System and Methane and Dust Control Plan for the mine.

3. In support of this request, petitioner states that—

(a) The use of belt air provides a safer, more effective system to ventilate the working sections;

(b) The use of belt air at the face would provide two additional safety factors for early detection of hot spots or small fires on the belt lines. They are: The human sense of smell and the highly sensitive CO monitoring system which is superior to the present heat detection system; and

(c) The use of belt air aids in controlling respirable dust and in dissipating methane which is liberated when mining virgin coal.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 15, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: July 7 1988.

[FR Doc. 88-15742 Filed 7-13-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-105-C]

Jet Coal Co. Inc.; Petition for Modification of Application of Mandatory Safety Standard

Jet Coal Company, Inc., Box 276, Virgie, Kentucky 41572 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Maverick Mine (I.D. No. 15-07453) located in Pike County, Kentucky, the petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the No. 2 Elkhorn seam and ranges from 40 to 50 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coal beds. The top is uneven and contains numerous brows.

3. Petitioner states that due to the dips and brows in the top, installation of canopies on the mine's electric face equipment would create a hazard to the equipment operator, because the canopies could strike and possibly destroy roof support. Also, the canopies would limit the equipment operator's visibility and seating position increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 15, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: July 7, 1988.

[FR Doc. 88-15743 Filed 7-13-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-103-C]

Spurlock Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Spurlock Mining Company, 30 Hill Drive, Prestonsburg, Kentucky 41653 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 1 (I.D. No. 15-08540) located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the Fireclay Coal Seam, and ranges from 35 to 54 inches in height.

3. Petitioner states that operating the mine's electric face equipment with canopies is detrimental to their roof control plan, as they hit previously installed permanent roof supports.

4. Petitioner further states that when canopies are lowered on the mine's electric face equipment to a height which allows clearance throughout the mine, the canopies limit the equipment operator's vision.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 15, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: July 6, 1988.

[FR Doc. 88-15744 Filed 7-13-88; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Maryland State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland State plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State plan provides for the adoption of all Federal standards as State standards after comments and public hearing. Section 1952.210 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letter dated March 15, 1988, from Commissioner Henry Koellein, Jr., Maryland Department of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards identical to 29 CFR 1910.1028 pertaining to amendments to the Benzene Standard as published in the **Federal Register** of September 11, 1987, (52 FR 34562). This standard is contained in COMAR 09.12.31. Maryland Occupational Safety and Health Standard was promulgated after public hearing on January 26, 1988. This standard was effective on March 21, 1988.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standard is identical to the Federal standard and accordingly is approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, PA 19104; Office of the Commissioner of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202; and the OSHA Office of State Programs, Room N-3476, Third Street and Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

a. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

b. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective July 14, 1988.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, Pennsylvania, this 12th day of May, 1988.

Linda R Anku,

Regional Administrator.

[FR Doc. 15748 Filed 7-13-88; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State submitted, by letter dated March 25, 1988, from John A. Pompei, Administrator, Accident Prevention Division, Department of Insurance and Finance, to James W. Lake, Regional Administrator, standard amendments comparable to 29 CFR 1926.550(b)(2), Cranes and Derricks; 1926.552(c)(15), Personnel Hoists; and 1926.803(e), Underground Transportation of Explosives, Standards for Construction, as published in the **Federal Register** on September 28, 1987 (52 FR 36378). These standard amendments were adopted effective by the State on February 29, 1988, after the Notice of Proposed Amendment of Rules was mailed, on December 24, 1987, to those on the Department of Insurance and Finance mailing list established pursuant to OAR 436-01-000 and to those on the Department's distribution mailing list as their interest appeared. No written comments or requests for a public hearing concerning this adoption were received.

2. *Decision.* Having reviewed the State submission in comparison with the relevant Federal standard amendments, it has been determined that the State standard amendments are at least as effective as the comparable Federal Act. OSHA has also determined that the difference between the State and Federal standard amendments are substantially identical. OSHA therefore approves this standard; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Accident Prevention Division, Department of Insurance and Finance, Room 204, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Room N-3476, 200 Constitution Avenue NW., Washington, DC 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the

Oregon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective July 14, 1988.

(Section 18, Pub. L. 91-596, 84 Stat. 1608 [29 U.S.C. 667])

Signed at Seattle, Washington this 20th day of May, 1988.

James W. Lake,

Regional Administrator.

[FR Doc. 88-15746 Filed 7-13-88; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under seiton 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State submitted by letter dated March 25, 1988 from John A. Pompei, Administrator, Accident Prevention Division, Department of Insurance and Finance, to James W. Lake, Regional Adminstrator, standards changes comparable to the Federal Construction Standard 29 CFR 1926.151(a)(1), Fire Prevention; 1926.152(b)(4)(v), Flammable and Combustible Liquids; 1926.351(d)(5), Arc Welding and Cutting; and 1926.803(j)(3), Compressed Air as published in the **Federal Register** on July 11, 1986 (51 FR 25294). These standards were adopted effective by the State on March 14, 1988 after the Notice of Proposed Amendment of Rules was mailed, on February 12, 1988, to those on the Department of Insurance and Finance mailing list established pursuant to OAR 436-01-000 and to those on the Department's distribution mailing list as their interest appeared. No written comments or requests for a public hearing concerning this adoption were received.

2. *Decision.* Having reviewed the State submission in comparison with the relevant Federal standard amendments, it has been determined that the State standard amendments are at least as effective as the comaprable Federal standard amendments, as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal standard amendments are minimal and that the standard amendments are thus substantially identical. OSHA therefore approves this standard; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal working hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Insurance and Finance, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Room N-3476, 200 Constitution Avenue NW, Washington, DC 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State Plan as a proposed change and making the Regional Adminstrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirement of State law and further participation would be unnecessary.

This decision is effective July 14, 1988.

(Section 18, Pub. L. 91-596, 84 Stat. 1608 [29 U.S.C. 667].

Signed at Seattle, Washington, this 20th day of May, 1988.

James W. Lake,

Regional Administrator.

[FR Doc. 88-15747 Filed 7-13-88; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL SCIENCE FOUNDATION

Privacy Act of 1974; New Systems of Records

AGENCY: National Science Foundation.

ACTION: Notice of new systems of records.

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the National Science Foundation (NSF) is providing notice of the existence of two new systems of records. The systems are designated NSF-50, "Principal Investigator/Proposal File and Associated Records," and NSF-51, "Reviewer/Proposal File and Associated Records." Both systems include the investigatory records maintained by NSF when proposals are submitted to the agency and subsequent evaluations of the applicants and their proposals are obtained.

The "Principal Investigator/Proposal File and Associated Records" system will contain the name of the principal investigator, the proposal and its identifying number, supporting data from the academic institution or other applicant, proposal evaluations from peer reviewers, a review record, financial data, and other related material. The "Reviewer/Proposal File and Associated Records" system is a subsystem of the above-mentioned file, and will contain the reviewer's name, the proposal and its identifying number, proposal rating, and other related material.

In the Proposed Rules Section of today's **Federal Register**, NSF also proposes to exempt portions of NSF-50, "Principal Investigator/Proposal File and Associated Records" from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). The exemption is needed to protect the identity of peer reviewers who provide confidential evaluations of applicants and their proposals.

In accordance with Privacy Act requirements, NSF has provided a report

on the proposed systems to the Director of OMB, the President of the Senate, and the Speaker of the House of Representatives.

EFFECTIVE DATE: Title 5 U.S.C. 552a(e)(4) and (11) require that the public be provided a 30-day period in which to comment on the routine uses of a new system. The Office of Management and Budget, which has oversight responsibilities under the Privacy Act, requires that it be given a 60-day period in which to review a proposed system. Accordingly, public comments must be received by August 15, 1988. These systems shall take effect without further notice on September 12, 1988, unless modified by a subsequent notice to incorporate comments received from the public.

ADDRESS: Written comments should be submitted to the NSF Privacy Act Officer, Division of Personnel and Management, National Science Foundation, Rm. 208, 1800 G Street, NW., Washington, DC 20550. All comments will be available for public inspection in Rm. 208, at the above address between the hours of 9:00 a.m. and 4:00 p.m.

Dated: July 6, 1988.

Herman G. Fleming,
NSF Privacy Act Officer.

NSF-50

SYSTEM NAME:

Principal Investigator/Proposal File and Associated Records.

SYSTEM LOCATION:

Decentralized. There are numerous separate files maintained by individual NSF offices and programs. National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Each person that requests support from the National Science Foundation, either individually or through an academic institution.

CATEGORIES OF RECORDS IN THE SYSTEM:

The name of the principal investigator, the proposal and its identifying number, supporting data from the academic institution or other applicant, proposal evaluations from peer reviewers, a review record, financial data, and other related material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 42 U.S.C. 1870.

PURPOSE OF THE SYSTEM:

This system enables program offices to maintain appropriate files and investigatory material in evaluating applications for grants or other support. NSF employees may access the system to make decisions regarding which proposals to fund, and to carry out any other authorized internal duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of information may be made:

1. To qualified reviewers for their opinion and evaluation of applicants and their proposals as part of the application review process.

2. To government agencies needing data regarding the names of Principal Investigators and their proposals in order to coordinate programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Various portions of the system are maintained on computer disks or in hard copy files, depending upon the individual program office.

RETRIEVABILITY:

Information can be accessed from the computer data base by addressing any type of data contained in the data base, including individual names. An individual's name may be used to manually access material in alphabetized hard copy files.

SAFEGUARDS:

All records containing personal information are maintained in secured file cabinets or are accessed by unique passwords and log-on procedures. Only those employees with a need-to-know in order to perform their duties will be able to access the information.

RETENTION AND DISPOSAL:

File is cumulative and is maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Division Director of particular office or program maintaining such records, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

NOTIFICATION PROCEDURE:

The NSF Privacy Act Officer should be contacted in accordance with procedures set forth at 45 CFR Part 613.

RECORD ACCESS PROCEDURES:

See "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

Information is obtained from the principal investigator, academic institution or other applicant, and peer reviewer.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The portions of this system consisting of investigatory material which would identify persons supplying evaluations of NSF applicants and their proposals have been exempted pursuant to 5 U.S.C. 552a(k)(5).

NSF-51

SYSTEM NAME:

Reviewer/Proposal File and Associated Records.

SYSTEM LOCATION:

Decentralized. There are numerous separate files maintained by individual NSF offices and programs. National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Reviewers that evaluate NSF applicants and their proposals, either by submitting comments through the mail or serving on review panels or site visit teams.

CATEGORIES OF RECORDS IN THE SYSTEM:

The "Reviewer/Proposal File and Associated Records" system is a subsystem of the "Principal Investigator/Proposal File and Associated Records," and will contain the reviewer's name, the proposal and its identifying number, proposal rating, and other related material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 42 U.S.C. 1870.

PURPOSE OF THE SYSTEM:

This system enables program offices to reference specific reviewers and maintain appropriate files and investigatory material in evaluating applications for grants or other support. NSF employees may access the system to make decisions regarding proposals and to perform any other authorized internal duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of information may be made to government agencies needed names of potential reviewers or specialists in particular fields.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Various portions of the system are maintained on computer disks or in hard copy files, depending upon the individual program office.

RETRIEVABILITY:

Information can be accessed from the computer database by addressing any type of data contained in the database, including individual names. An individual's name may be used to manually access material in alphabetized hard copy files.

SAFEGUARDS:

All records containing personal information are maintained in secured file cabinets or are accessed by unique passwords and log-on procedures. Only those employees with a need-to-know in order to perform their duties will be able to access the information.

RETENTION AND DISPOSAL:

File is comulative and is maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Division Director of particular office or program maintaining such records, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

NOTIFICATION PROCEDURE:

The NSF Privacy Act Officer should be contacted in accordance with procedures set forth at 45 CFR Part 613.

RECORD ACCESS PROCEDURES:

See "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual reviewer.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 88-15739 Filed 7-13-88; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-400]

Carolina Power & Light Co. et al. and Shearon Harris Nuclear Power Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from a portion of the requirements of 10 CFR 50.71(e)(3)(i) to the Carolina Power & Light Company and the North Carolina Eastern Municipal Power Agency (the licensees) for the Shearon Harris Nuclear Power Plant, Unit 1, (Shearon Harris, Unit 1) located in Wake and Chatham Counties, North Carolina.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from the requirement of 10 CFR 50.71(e) to submit an updated Final Safety Analysis Report (UFSAR) for Shearon Harris, Unit 1, within 24 months of the issuance of an operating license. A low power operating license was issued for Shearon Harris, Unit 1, on October 24, 1986, and a full power operating license was issued on January 12, 1987. By letter dated April 21, 1988, the licensee requested an exemption from 10 CFR 50.71(e) requiring the refiling of a complete FSAR as the UFSAR. Instead, the licensee proposes to update the existing docketed FSAR by issuing an amendment to the FSAR. The FSAR had been updated through October 30, 1987.

The Need for Proposed Action

10 CFR 50.71(e) requires that the information contained in the FSAR docketed with the operating license application be maintained current. The underlying purpose of 10 CFR 50.71(e) will be achieved by updating the docketed FSAR through the amendment process and will provide a single complete updated FSAR providing the state of completeness contemplated by the rule. The additional expenditure of resources entailed in the filing of a new UFSAR would cause a hardship since the same objective would be achieved by the proposed action of the licensee. Therefore, an exemption is needed to eliminate the unnecessary costs associated with the filing of a UFSAR.

Environmental Impacts of the Proposed Action

The proposed exemption affects only the method by which the FSAR is kept up-to-date and does not affect plant operation or the risk of facility accidents. Accordingly, the exemption will not increase the probability or consequences of any reactor accident sequence and will not otherwise affect any other radiological impact associated with the facility. Consequently, the Commission concludes that there are no significant radiological impacts associated with the proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption 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 exemption.

Alternative to the Proposed Action

Because the staff has concluded that there is no significant environmental impact associated with the proposed exemption, any alternative to this exemption will have either no significantly different environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts as a result of plant operations.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the "Final Environmetal Statement related to the operation of the Shearon Harris Nuclear Power Plant, Units 1 and 2" dated October 1983.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request that supports the proposed exemption. The NRC staff 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 exemption.

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 request for the exemption dated April 21, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Richard B. Harrison Library, 1313 New Bern Avenue, Raleigh, North Carolina 27610.

Dated at Rockville, Maryland, this 8th day of July, 1988.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II–I, Division of Reactor Projects I/II.

[FR Doc. 88–15861 Filed 7–13–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

GPU Nuclear Corp. and Jersey Central Power & Light Co., Oyster Creek Nuclear Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License DPR–16 issued to GPU Nuclear Corporation (GPUN, the licensee), for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise Technical Specification Sections 3.2.C, 4.2.E, and 6.9.3 to reflect the use of an enriched sodium pentaborate solution in the Standby Liquid Control System (SLCS).

The proposed action is in accordance with the licensee's application for amendment dated May 10, 1988.

The Need for the Proposed Action

The proposed change to the Technical Specifications is required in order for the licensee to comply with ATWS Rule (10 CFR 50.62), and Generic Letter 85–03 "Clarification of Equivalent Control Capacity for Standby Liquid Control Systems," dated January 28, 1985.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the Technical Specifications. The proposed revision would allow the licensee to use an enriched sodium pentaborate solution in the Standby Liquid Control System. The use of an enriched sodium pentaborate solution would not increase the probability or consequence of accidents, no changes are being made in the types of any 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 action would result in no significant environmental impact.

With regard to potential non-radiological impacts, the proposed changes to the Technical Specifications involve 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.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on June 3, 1988 (53 FR 20396). No request for hearing or petition for leave to invervene was filed following this notice.

Alternative to the Proposed Action

It has been determined that there is no measurable impact associated with the proposed amendment; any alternatives to the amendment will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal operation.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commisssion concluded that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see the request for amendment dated May 10, 1988. Copies of the request for amendment are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland, this 8th day of July 1988.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects I/II.

[FR Doc. 88–15857 Filed 7–13–88; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Nuclear Waste; Revision 1

The Advisory Committee on Nuclear Waste will hold a meeting on July 21–22, 1988, Room 1046, 1717 H Street, NW., Washington, DC. The meeting will start at 10:30 a.m. on Thursday, July 21 and continue until close of business at 5:30 p.m. It will resume at 8:30 a.m. on Friday, July 22 and continue until the close of business at 5:30 p.m.

Thursday, July 21, 1988

10:30 a.m.–10:45 a.m.: Comments by ACNW Chairman (Open)—The ACNW Chairman will report briefly regarding items of current interest.

10:45 a.m.–12:15 p.m.: Below Regulatory Concern (Open)—The NRC Staff will present their proposed policy statement to the ACNW.

1:15 p.m.–3:30 p.m.: Dry Cask Storage Study (Open)—The DOE Staff will brief the ACNW on their Dry Cask Storage Study. This study is required by the Nuclear Waste Policy Amendments Act of 1987 to be submitted to Congress in October 1988.

3:30 p.m.–4:30 p.m.: Rulemaking on Anticipated and Unanticipated Events (Open)—The NRC Staff will discuss the proposed rulemaking on this topic.

4:30 p.m.–5:30 p.m.: ACNW Activities and Preparation of ACNW Reports (Open)—The ACNW will discuss ACNW activities, future meeting agendas, and organizational matters.

Friday, July 22, 1988

8:30 a.m.–9:30 a.m.: Environmental Monitoring of Low-Level Waste Facilities (Open)—The NRC Staff will discuss the NRC Draft Technical Position on this topic.

9:30 a.m.–11:30 a.m.: Center for Nuclear Waste Regulatory Analyses (Open)—The NRC Staff and representatives from the Center will brief the ACNW on the status of this program.

11:30 a.m.–12:30 p.m.: EPA Standards for HLW Geologic Repository (Open)—The EPA will provide a briefing on the status of this topic.

1:30 p.m.–4:00 p.m.: Briefing on the Barnwell/Savannah River/Chem-Nuclear and LN Technologies Facilities (Open)—The NRC Staff and, if possible, representatives of the above organizations and of the state of South Carolina will brief the members of the ACNW to prepare them for their proposed visit to these facilities in early August. The Office of State Program will also describe the Agreement States program in general and their recent interaction with the state of South Carolina in particular.

4:00 p.m.–4:45 p.m.: NRC Staff Actions on ACNW Recommendations (Open)—The ACNW will discuss with the NRC

Staff the actions that the NRC Staff has taken on ACNW recommendations

4:45 p.m.–5:30 p.m.: ACNW Activities and Preparation of ACNW Reports (Open)—The ACNW will discuss ACNW activities, future meeting agendas, and organizational matters.

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the Executive Director of the Office of the ACRS as far in advance as practicable so that appropriate arrangements can be made to allow the necesary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the Office of the ACRS, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

Date: July 16, 1988.

John C. Hoyle,

Advisory Committee Management Office.

[FR Doc. 8–15855 Filed 7–13–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–259, 50–260, 50–296]

Biweekly Notice Applications and Amendments to Operating Licenses Including No Significant Hazards Considerations; Tennessee Valley Authority; Correction

On June 1, 1988, the **Federal Register** published the Bi-weekly Notice of Issuance of Amendment to Facility Operating License. On page 20052, for Browns Ferry, Units 1, 2 and 3 (application dated January 14, 1988, TS–237) the effective date read, "May 4, 1999." The correct effective date is May 4, 1988.

Dated at Rockville, Maryland, this 7th day of July 1988.

For the Nuclear Regulatory Commission.

Rajender Auluck,

Acting Assistant Director for Projects, TVA Projects Division, Office of Special Projects.

[FR Doc. 88–15859 Filed 7–13–88; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–315 and 50–316]

Indiana Michigan Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR–58 and DPR–74 issued to the Indiana Michigan Power Company (the licensee), for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, located in Berrien County, Michigan.

In accordance with the licensee's application for amendments dated February 1, 1988, the amendments would revise the Technical Specifications (TS's) to make them more consistent with NRC guidelines concerning obtaining milk samples for analysis. In addition, the TS bases concerning radioactive gaseous effluents would be changed to be more consistent with the Westinghouse Standard TS's with regard to the thyroid dose rate release pathway for a child, and an editorial error would be corrected.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By August 15, 1988, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and 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 that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so

inform the Commission by a toll-free telephone call to Western Union at 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 Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

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 amendments 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 amendments dated February 1, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland, this 5th day of July.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Director, Project Directorate III–1, Division of Reactor Projects III, IV, V & Special Projects.

[FR Doc. 88–15860 Filed 7–13–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–298]

Nebraska Public Power District; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–46, issued to the Nebraska Public Power District (the licensee), for operation of the Cooper Nuclear Station located in Nemaha County, Nebraska.

The amendment would revise the frequency for surveillance testing of main steam isolation valves (MSIV's).

The facility Technical Specifications presently require that MSIV's be slow-speed/partial-stroke tested weekly and full-speed/full-stroke tested quarterly. Since issuance of the Cooper Technical Specifications the staff position has been revised to reflect increased experience with MSIV testing. The current staff position, which is consistent with ASME Section XI Inservice Testing requirements, is that stroke testing can be conducted quarterly, partial stroke only, if full stroke testing cannot be performed at power. Cooper presently has an inoperable slow-speed test solenoid valve in one of its MSIV control circuits. This precludes the capability to partially stroke that valve. Because the MSIV cannot be slow-speed/partial-stroke tested weekly, it must be full-speed/full-stroke tested weekly in order to comply with the Technical Specifications. The full-speed/full-stroke test requires that power be reduced in order to prevent a high pressure scram.

The amendment would eliminate the weekly test. By expediting the amendment, the weekly power reductions, with the concurrent increased possibility of scram, with the attendent increased challenges to Safety 1 Relief valves can sooner be eliminated.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards considerations. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed Technical Specification change is judged to involve no significant hazards based on the following:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Evaluation

This proposed change deletes the weekly exercise of the MSIV's. The weekly surveillance involves partial closure of each individual valve to the 90% open position and reopening to the full open position.

The safety function of the MSIV is to isolate the main steamline in case of a steamline break or major fuel failure, to limit the loss of reactor coolant and to limit the release of radioactive materials. The MSIV's do not affect the probability of any accident occurring. Also, the test which is being deleted does not test the safety function of the MSIV's. The safety function is tested during the quarterly full stroke fast closure trip test. Since deleting the weekly partial closure test is not considered to have any affect on the reliability of the MSIV's to perform their safety function, there is no increase in the consequences of any postulated accidents.

2. Does the proposed license amendment create the possibility for a new or different kind of accident from any accident previously evaluated?

Evaluation

The safety function of the MSIV's is to mitigate the consequences of accidents by isolating the main steamline to limit the release of reactor coolant and radioactive materials. The MSIV's do not prevent the occurrence of any accident. Failure of the MSIV's to isolate could increase the consequences of several accidents previously evaluated in Chapter 14 of the Updated Safety Evaluation Report, but would not create any new or different kind of accident since they perform only a mitigation function. The elimination of the weekly exercising of the MSIV's by partial closure does not test the safety function of the valves, and therefore, cannot increase the consequences of an accident. Since the MSIV's perform a mitigating safety function, and the quarterly test adequately tests the safety function, elimination of the weekly test cannot create any new or different kind of accident.

3. Does the proposed license amendment involve a significant reduction in a margin of safety?

Evaluation

The deletion of the weekly partial closure test of the MSIV's does reduce the frequency of testing the MSIV's. This could be considered to reduce the

margin of safety for the MSIV's, however, the test to be deleted does not test the safety function of the valves, and therefore, does very little to test any function or capability of the valve.

The weekly partial closure test uses a test solenoid valve to change the position of the three way pilot valve, which slowly exhausts the air pressure that holds open the MSIV. As the air pressure is reduced, the springs in the MSIV start to close the valve. At the 90% open position, a limit switch is tripped and the test solenoid valve is de-energized by the operator, allowing the MSIV to return to its full open position. The normal MSIV isolation does not rely upon the test solenoid valve for full closure. The only purpose that this test fulfills is a weekly check to verify that the MSIV is not binding. The MSIV's are tested quarterly, and this test adequately verifies that the MSIV's are not binding and that the valves will perform their safety function.

The quarterly full stroke fast closure trip test is considered to be adequate, since this is the only test required by the ASME Boiler and Pressure Vessel Code and the Standard Technical Specifications (STS). Also, a quarterly test is all that is required of the other power operated primary containment isolation valves.

Based upon the discussion above, the weekly partial closure test does not test the safety function of the MSIV's, the quarterly full stroke fast closure test is clearly a better test and deletion of the partial closure test would not significantly reduce any margin of safety.

Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice.

Written comments may also be delivered to Room 4000, National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 29, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a haring 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 a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of 30-days, the Commission will make a final determination on the issue of no significant hazards considerations. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards considerations, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves significant hazards considerations, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is

requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 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 Herbert N. Berkow: 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, Washingotn, DC 20555, and to Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601, 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).

For further details with respect to this action, see the application for amendment dated July 5, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Local Public Document Room, Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Dated at Rockville, Maryland, this 8th day of July 1988.

For the Nuclear Regulatory Commission.

William O. Long,

Project Manager, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-15858 Filed 7-13-88; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25886; File No. SR-DTC-88-07]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Depository Trust Co.

The Depository Trust Company ("DTC") on June 8, 1988, filed a proposed rule change with the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"). The proposal would authorize a Receiver Authorized Delivery ("RAD") function to enhance DTC's Same-Day Funds Settlement ("SDFS") Service.[1] The Commission is publishing this notice to solicit public comment on the proposal.

I. DTC's Description of the Proposal

DTC states in its filing that the proposal would authorize the implementation of RAD functions that would enhance its SDFS Service. The operations of RAD would be detailed in DTC's Participant Terminal System ("PTS") Reference Manual. The use of RAD would mean that DTC participants that are due to receive securities would have the option of reviewing and authorizing delivery orders ("DOs") and payment orders ("POs") before the items are posted to their accounts. The use of RAD also would enable each receiving participant to set a money amount level so that, if any incoming book-entry delivery exceeded that amount, the delivery must be authorized by the participant before its SDFS settlement account may be debited.[2]

DTC has developed several PTS functional programs that would support RAD, including: (1) The Deliver Order Function ("DO Function") which sends an electronic authorization request to the receiving participant each time a delivery participant enters a transaction that is subject to RAD's control and indicates the SDFS DOs and POs that require receiver authorization; (2) the Deliver Order Approval Function which allows the SDFS receiving participant to view all unapproved RAD transactions sent to it via the DO function and allows it to approve or cancel any of such transactions; (3) the Deliver Order Approval Deliverer Inquiry Function which allows the delivering participant to browse through all of the approved, unapproved, and cancelled RAD transactions that the delivering participant initiated via the DO function; (4) the Deliver Order Approval Receive Inquiry Function which permits the SDFS receiving participant to browse through all of the approved, unapproved, and cancelled transactions that the receiving participant received via the DO function; and (5) the Receiver Authorized Delivery Limit Function which allows the SDFS receiving participant to add, delete, or maintain money levels to control DOs and POs sent to its account by other SDFS participants. Additionally, RAD will be triggered automatically by: (1) DOs deterimined by DTC as possibly overvalued (based on daily market values), (2) DOs and POs entered over PTS from 2:00 to 2:30,[3] and (3) all POs for amounts greater than $50,000.

II. DTC's Rationale for the Proposal

DTC states in its filing that the purpose of the proposed rule change is to clarify the procedures to be used by participants to review and authorize Deliver Orders and Payment Orders before its SDFS Service attempts to process them. DTC emphasizes that SDFS is a tightly controlled system requiring that receivers of attempted securities deliveries have sufficient collateral in their accounts to support the settlement debits that would result from the deliveries. To reduce reclamations from erroneous deliveries and limit a receiver-participant's exposure to the possibility that its reclamation might bel blocked by system controls, SDFS contemplates that a receiver-participant will have the option of authorizing Deliver Orders and Payment Orders before they are posted to his account.

DTC states that the proposal is consistent with the Act, particularly section 17A(b)(3)(F) of the Act, in that it promotes the prompt and accurate clearance and settlement of transaction in securities that settle in same day funds.

III. Proposal's Effectiveness and Solicitations of Comments

The rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to be the Commission that abrogation is necessary to appropriate

[1] The SDFS Service provides depository and transaction settlement services for securities that settle in sameday funds. Same-day funds (also known as "Fed Funds") are immediately available for re-delivery on the day of receipt.

On June 9, 1987, the Commission issued an order approving implementation of an SDFS Service pilot program on a temporary basis until January 31, 1988; and on December 28, 1987, the Commission extended that pilot program to June 30, 1988. *See* Securities Exchange Act Release Nos. 24669 (July 9, 1987), 52 FR 26613 and 25308 (February 4, 1988), 53 FR 6900. DTC since has filed a proposal with the Commission requesting that SDFS be approved on a permanant basis. *See* File No. SR-DTC-88-06, which was noticed for public comment by Securities Exchange Act Release No. 25691 (May 11, 1988), 53 FR 17522.

[2] For start-up purposes, DTC states in the filing that it has set the money amount levels of all DTC participants at $9,999,999, subject to participants setting their own amount levels.

[3] The daily cut-off time for entering DOs and POs over PTS is 2:30 p.m., and DTC believes that RAD should be triggered by all orders for value entered over PTS during the last half hour of the day. Telephone conversation between Richard Nesson, General Counsel, DTC, and Thomas C. Etter, Attorney, Securities and Exchange Commission, June 29, 1988.

in the public interest, for the protection of investors, or in furtherance of the purpose of the Act.

Written comments may be submitted within 21 days after notice is published in the **Federal Register**. Six copies of such comments should be filed with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, with accompanying exhibits, and all written comments, except for material that may be withheld from the public under 5 U.S.C. 552, are available, at the Commision's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing also will be available for inspection and copying at the principal offices of the DTC. All submissions should refer to File No. SR–DTC–88–07 and should be submitted by August 4, 1988.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: July 6, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–15899 Filed 7–13–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25883; File No. SR–NASD–88–18]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Removal of Fine Limitations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") on May 23, 1988, and amended on June 30, 1988, the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed amendment to Article V, Section 1 of the NASD Rules of Fair Practice removes the limitation on fines (currently $15,000 per violation) that may be assessed against a member or a person associated with a member, and adds a reference to the NASD Market Surveillance Committee.

Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD Board of Governors has determined that the current limitation on fines which the NASD may impose in connection with its desciplinary proceedings should be removed since such limitations inhibit the NASD's ability to adequately redress violations of the NASD's rules. The Board has noted cases in which the number of alleged violations was small but the underlying misconduct was egregious and/or involved substantial sums. In those instances, the NASD's ability to respond appropriately to the gravity of the misconduct was limited because of the current limitations. These restrictions undermine the usefulness of fines as a deterrent to future misconduct.

The proposed amendments to Article V, Section 1 of the NASD Rules of Fair Practice would eliminate the $15,000 ceiling placed on the amount of the fine that the NASD's District Business Conduct Committees (DBCCs), Market Surveillance Committee (MSC), or Board of Governors may assess for each violation of the Rules of Fair Practice. The amendments would allow a DBCC, the MSC, or the Board to establish the amount of each fine based upon the nature of the violation and other relevant considerations.

The proposed rule change is consistent with the provisions of section 15A(b)(2) of the Act, as the proposed amendments will enable the NASD more effectively to enforce compliance with its rules by providing its DBCCs, MSC, and Board of Governors with additional flexibility in fashioning remedial monetary sanctions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The proposed amendment to Article V, Section 1 of the NASD's Rules of Fair Practice was circulated for members' comment in Notice to Members 87–20, dated April 1, 1987. The NASD received 35 comments in response to this Notice to Members. Nine generally supported removing the fine limitations and 26 were opposed.

Eight commentators supported the proposal without qualification. Of these, one noted that removing fine limitations would be consistent with the practices of another self-regulatory organization and would provide necessary flexibility to the NASD's DBCCs. One commentator fully supported the proposal but observed that the size of the fine imposed in any individual case should be reasonably related to the degree of misconduct and the net worth of the respondent.

Thirteen commentators opposed the proposed without qualification. Of these, one believed that the proposal would vest too much discretion in DBCCs and feared discrimination against larger institutions; other commentators feared the oppression of smaller firms because of the proposal. Three additional commentators opposed the proposal, but suggested alternative remedies, and ten commentators opposed the proposal, but favored some increase in the authorized size of the fine which could be imposed for a single violation.

The NASD Board reviewed the comments and concluded that the amendment to Article V, Section 1 of the NASD Rules of Fair Practice should be adopted. The Board noted recent initiatives that it has taken to promote consistency in the imposition of remedial sanctions by DBCCs and the MSC pursuant to its oversight role and as an appellate body in the review of disciplinary proceedings. The Board also noted that applications by the New York Exchange and the American Stock Exchange to remove fine limitations in their respective disciplinary rules were approved by the Securities and Exchange Commission on January 20, 1988. The propose rule change was published for member vote on May 4, 1988, in NASD Notice to Members 88–31. Of 2,796 valid ballots received, 1,885 reflected approval of the proposed rule change, 899 reflected disapproval, and

12 members abstained. Having received the results of the member vote authorizing final action, the NASD submitted the proposed rule change in Amendment No. 1 to SR–NASD–88–18.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 30 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by August 4, 1988.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30–3(a)(2).

Jonathan G. Katz,

Secretary.

Dated: July 5, 1988.

[FR Doc. 88–15900 Filed 7–13–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25881; File No. SR–OCC–88–06]

Self-Regulatory Organizations; Options Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on June 15, 1988, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission a proposed rule change. The proposal is designed to clarify that thresholds used by OCC to exercise certain expiring options contracts are not intended to dictate options positions in customer accounts which may, should, or must be exercised by OCC members for their customers. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

If an option meets certain exercise thresholds on its expiration date, it is subject to automatic exercise by OCC.[1] To prevent automatic exercise, members must indicate on exercise reports [2] those options meeting exercise thresholds that they don't want exercised. OCC believes that requiring members to indicate only those options meeting the thresholds that are not to be exercised reduces the number of exercise instructions received on expiration date and expedites processing of those instructions.

OCC represents that many members have asked whether they are required or encouraged to exercise for their customers positions meeting OCC's exercise thresholds. OCC believes that its exercise thresholds are merely administrative guidelines to expedite processing and are not intended to dictate options positions which may, should, or must be exercised for customers. The proposal would add this interpretation to OCC Rule 805.

OCC believes that the proposed rule change is consistent with the purposes and requirements of section 17A of the Act, because it would further the public interest by clarifying the purpose of exercise thresholds contained in OCC Rules 805 and 1804.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views, and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Reference should be made to File No. SR–OCC–88–06.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of the filing (SR–OCC–88–06) and of any subsequent amendments also will be available for inspection and copying at OCC's principal office.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: July 5, 1988.

[FR Doc. 88–15901 Filed 7–13–88; 8:45 am]

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[1] Options contracts are subject to automatic exercise if they have an exercise price below (in the case of a call) or above (in the case of a put) the closing price of the underlying security by (i) ¾ of a point or more, if the option contract is carried in a customers' account, or (ii) ¼ of a point or more, if the option contract is carried in any other account. For the purpose of (i), the aggregate price interval applicable to index option contracts is $25 per contract, and for the purpose of (ii), the aggregate price interval applicable to index option contracts is $1 per contract. *See* OCC Rules 805(f)(2) and 1804(1).

[2] By 8:00 a.m. (EST) on each expiration date, OCC delivers to members a preliminary exercise report listing expiring options in each of the member's accounts with OCC. Members indicate options they want exercised and options subject to automatic exercise that they don't want exercised and return those reports to OCC by 10:00 a.m. (EST). By 3:00 p.m. (EST), OCC delivers final exercise reports to members reflecting previous exercise instructions. Members make changes to exercise instructions on these reports and submit them to OCC by 5:00 p.m. (EST).

[Release No. 34-25885; File No. SR-OCC-88-04]

Self-Regulatory Organizations; Filing of Proposed Rule Change by Options Clearing Corp.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 4, 1988, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

The proposed rule change would provide for the issuance and settlement of options based upon the annualized yield to maturity (or the annualized discount, in the case of Treasury bills) of Treasury securities. (Such options are hereafter referred to as "yield-based Treasury options".) The proposed rules provide for the clearance and settlement of yield-based Treasury options transactions and the processing and settlement of exercises of such options In general, the OCC rules applicable to index options will apply to yield-based Treasury options as well, with such exceptions as are specified in the proposed rule change. The format of the proposed yield-based Treasury options rules is similar to that of OCC's rules pertaining to other non-equity option products.

The proposed rule change would establish definitions applicable to yield-based Treasury options, specify margin requirements for such options, and establish procedures for the settlement of such option exercises.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of, and Statutory Basis for, the Proposed Rule Change

General

The overall purpose of the proposed rule change is to provide for the issuance of cash-settled, European-style options ("yield-based Treasury options") covering the annualized yield to maturity (or the annualized discount, in the case of Treasury bills) of Treasury securities, the clearance and settlement of yield-based Treasury option transactions, and the processing and settlement of yield-based Treasury option exercises. The proposed rule change is intended to permit the trading of such options as proposed by the Chicago Board Options Exchange and as expected to be proposed by the American Stock Exchange.

Organization of Proposed Rule Change

The proposed rule change consists of four sections: amendments to existing By-Laws, new By-Laws (which are organized into a separate Article) dealing exclusively with yield-based Treasury options, amendments to existing Rules, and new Rules (which are organized into a separate Chapter) dealing exclusively with yield-based Treasury options. Following the same general format as OCC's rule changes relating to other new option products, the present rule change segregates, where feasible, By-Laws and Rules dealing wth yield-based Treasury options so as to keep existing By-Laws and Rules as simple as possible.

OCC's existing By-Laws in Articles I–XI and the Rules in Chapters I–XII will also apply to yield-based Treasury options except where such By-Laws or Rules are expressly limited or expressly replaced or supplemented by the Rules proposed herein.

Proposed Amendments to Existing By-Laws

Proposed amendments to Article I, Section 1 of the existing By-Laws consist of additions to three definitions in order to provide for the application of those terms to yield-based Treasury options. Yield-based Treasury options are proposed to be classified as "non-equity options" and would therefore participate in the same Clearing Fund as do other non-equity options.

Because virtually identical procedures will be applicable to all cash-settled products, Section 1 of Article V is proposed to be amended to provide that a single approval will authorize a Clearing Member to clear all such products. Clearing Members that are presently authorized to clear transactions in index options will therefore automatically be authorized to clear transactions in yield-based Treasury options.

The proposed amendment to the Interpretations and Policies to Article VI Section 9 makes clear the inapplicability of paragraphs (a) and (b) of that Section to yield-based Treasury options. Similarly, the introduction to Article XIII is amended so as to make clear the inapplicability of that Article to yield-based Treasury options.

Proposed Article XVI of the By-Laws

The introduction to proposed Article XVI of the By-Laws makes clear that the By-Laws in Articles I–XI apply to yield-based Treasury options as well as to stock options, except where expressly modified or made inapplicable to yield-based Treasury options by Article XVI. The effect on other By-Laws of each By-Law Section in Article XVI is stated in brackets at the end of the Section.

Article XVI, Section 1, adds certain definitions uniquely applicable to yield-based Treasury options and redefines certain terms to assign different meanings when those terms are used in respect of such options. The definition of "underlying yield" in Section 1(b) makes clear that underlying yeilds may be expressed either in terms of a "yield indicator" (as proposed by CBOE) or in terms of a "Yield complement" (as proposed by AMEX).

Article XVI, Section 2, sets forth the basic rights and obligations of holders and writers of yield-based Treasury options. Their rights and obligations are similar to the rights and obligations of holders and writers of European-style index options except that cash settlement is based upon the yields of underlying Treasury securities rather than an index. The holder has the right to purchase from the Corporation (in the case of a call) or to sell to the Corporation (in the case of a put) the "aggregate settlement value" which is a dollar amount determined by the annualized yield to maturity (or the annualized discount, in the case of Treasury bills) of the underlying Treasury securities or Treasury bills. An interpretation following Section 2 emphasizes that the effect of changes in the underlying yield upon the value of an option is reversed when the yield is expressed as a yield complement.

Article XVI, Section 3, would permit the Corporation to make equitable adjustments in the terms of outstanding yield-based Treasury options in the event that the Treasury changes the terms or the schedule on which an underlying security is isued, or ceases to issue securities of the specified maturity

periods, or in the event that an Exchange decreases the multiplier for any class of such options. The provisions of Section 3 are closely parallel to the corresponding provisions of OCC's By-Laws applicable to index options.

Article XVI, Section 4, would give the Corporation power to postpone the exercise settlement date and/or fix the exercise settlement amount in the event that the settlement value of the underlying yield for any series of yield-based Treasury options becomes unavailable and cannot be calculated. Only in extraordinary circumstances will the Corporation adjust officially reported settlement values, even if those values are subsequently found to have been erroneous. In no event will a completed settlement be adjusted due to errors in officially reported settlement values. This Section is also very similar to the corresponding provisions applicable to index options.

Article XVI, Section 5, provides that the Exchange shall specify the time of day and method by which settlement values for yield-based Treasury options are detemined. Any change in the method by which settlement values are determined may be made applicable to outstanding contracts if the Exchange so specifies.

Proposed Amendment to Existing Rules

Rule 101(h) is being amended to make clear that the definition of "exercise settlement amount" set forth there is applicable only to stock options. The term is separately defined elsewhere in respect of certain other options and is defined in proposed Section 1 of Article XVI in respect of yield-based Treasury options.

OCC's existing margin rules relating to other non-equity options will apply to yield-based Treasury options as well. The proposed amendment to Rule 602A indicates how the term "marking price" applies to yield-based Treasury options.

The proposed amendment to the introduction to Chapter XIV of the Rules makes explicit that the scope of that Chapter is limited to Treasury securities options that are settled through delivery of the underlying security and that it does not apply to yield-based Treasury options.

Proposed Chapter XVII of the Rules

Proposed Rule 1701, in effect, provides that underlying securities may not be deposited in lieu of margin on yield-based Treasury call options and that Treasury bills may not be deposited in lieu of margin on yield-based Treasury put options.

Proposed Rule 1702 establishes an expiration date exercise procedure for yield-based Treasury options at the Clearing Member level. This procedure is essentially similar to that applicable to other options. Options that are in the money by at least $25.00 (for a contract carried in a customer's account) or $1.00 (in the case of a contract carried in any other account) will be exercised unless the Clearing Member directs otherwise. Because yield-based Treasury options are European-style options, exercises will be processed only on the expiration data.

Proposed Rule 1703 provides that the exercise settlement date for yield-based Treasury options is the business day following the expiration date. OCC's Board of Directors retains the authority to extend or postpone any exercise settlement date.

Proposed Rule 1704 provides for the cash settlement of yield-based Treasury option exercises through payment by the assigned Clearing Member and receipt by the exercising Clearing Member of the difference between the aggregate exercise price and the aggregate settlement value on the day of exercise. The proposed settlement procedure is essentially like that currently used for permium settlement and exercise settlement of index options. Under Rule 1704, all settlement rights and obligations are between each Clearing Member and OCC rather than between exercising and assigned Clearing Members.

Proposed Rule 1705 provides for the disposition of exercised and assigned option contracts of a suspended Clearing Member (*e.g.*, a Clearing Member that is insolvent). Because yield-based Treasury option exercises are settled in cash rather than through the delivery of underlying securities, such contracts may not be liquidated by the buy-in and sell-out procedures of Rules 910 and 911. Instead, exercised and assigned yield-based Treasury option contracts of suspended Clearing Members will be settled in the ordinary manner under Rule 1704, provided that the settlement amount will be paid from or, subject to the rights of any pledgees under Rule 614, credited to (as the case may be) the Liquidation Settlement Account established under Rule 1104.

Statutory Basis for the Proposed Rule Change

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended, in that it facilitates the prompt and accurate clearance and settlement of transactions in yield-based Treasury options. It does so by applying to such options transactions substantially the same rules and procedures that have been used successfully in the clearance and settlement of transactions in index options.

The proposed rule change is consistent with the safeguarding of funds and securities in OCC's custody or control or for which OCC is responsible in that it would apply to yield-based Treasury options a system of safeguards, including margin and clearing fund requirements, which is substantially the same as OCC currently uses for other options.

The proposed rule change does not affect OCC's dues, fees or other charges, nor does it imposes any schedule of prices, or fixed rates or other fees for services rendered by Clearing Members, nor does it have any effect on OCC's disciplinary rules.

(B) Burden on Competition

OCC does not believe that the proposed rule change would have any material impact on competition.

(C) Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, and no written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 14, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: July 6, 1988.

[FR Doc. 88-15902 Filed 7-13-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16476; 812-7010]

Boston Financial Qualified Housing Tax Credit L.P. II; Application

July 8, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Boston Financial Qualified Housing Tax Credits L.P. II, a Delaware limited partnership (the "Partnership") and its managing general partner, Arch Street, Inc., a Massachusetts corporation ("Arch Street, Inc.", collectively with the Partnership, "Applicants").

Relevant 1940 Act Sections: Exemption under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicants seek an order exempting the Partnership from all provisions of the 1940 Act and the rules thereunder to permit the Partnership to invest in other limited partnerships that in turn will engage in the development, rehabilitation, ownership and operation of low income housing projects.

FILING DATE: The application was filed on March 25, 1988 and amended on June 27, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on August 2, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant: c/o The Boston Financial Group Incorporated, 225 Franklin Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Cecilia C. Kalish, Staff Attorney (202) 272-3035 or Curtis R. Hilliard, Special Counsel (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. The Partnership was formed on March 10, 1988, as a vehicle for equity investment in appartment complexes to be qualified, in the opinion of counsel, for the low income housing tax credit (the "Low Income Housing Credits") under the Internal Revenue Code of 1986, as amended. Up to 15% of the aggregate capital contributions of the limited partners of the Partnership may be invested in non-subsidized apartment complexes that will be qualified for the Low Income Housing Credits.

2. The Partnership will operate as a "two-tier" entity, i.e., the Partnership, as a limited partner, will invest in other limited partnerships ("Local Limited Partnerships"), that in turn, will engage in the development, rehabilitation, ownership and operation of apartment complexes. The Partnership's investment objectives are to provide current tax benefits in the form of tax credits which qualified investors, *i.e.*, those meeting the suitability requirements set forth herein, may use to offset their federal income tax liability, to preserve and protect the Partnership's capital, to provide limited cash distributions which are not expected to constitute taxable income during Partnership operations and to provide cash distributions from sale or refinancing transactions, as defined in the Partnership's partnership agreement (the "Partnership Agreement").

3. The Partnership will normally acquire at least a 90% interest in the profits, losses and tax credits of the Local Limited Partnerships, with the balance remaining with the local general partners. However, in certain cases, at the discretion of the managing general partner, the Partnership may acquire a lesser interest in a Local Limited Partnership. In such cases, the Partnership will normally acquire at least a 50% interest in the operating profits, losses and tax credits of the Local Limited Partnership. Should the Partnership invest in any Local Limited Partnership in which it acquires less than 50% of the Limited Partnership interest, the Partnership Agreement will provide that the Partnership will have at least a 50% vote to: amend such partnership agreement of such Local Limited Partnership; dissolve such Local Limited Partnership; remove the Local General Partner and elect a replacement; approve or disapprove the sale of substantially all of the assets of such Local Limited Partnership. The Partnership will normally acquire at least a 90% interest in the cash distributions of the Local Limited Partnership, with the balance remaining with the Local General Partners. In addition, in connection with the qualification of the sale of the units of limited partnership interests in certain states, the Partnership has entered into an undertaking with certain state securities authorities indicating that the Local Limited Partnership Agreements will provide to the limited partners of the local limited partnerships substantially all of the rights required by Section VII of the NASAA Guidelines.

4. On March 18, 1988, the Partnership filed a registration statement (as amended on June 16, 1988) under the Securities Act of 1933, as amended (the "Securities Act"), pursuant to which the Partnership intends to offer publicly 35,000 untis of limited partnership interest ("Units") at $1,000 per Unit with a minimum investment of $5,000 per investor. Purchasers of Units will become limited partners ("Limited Partners") of the Partnership. In the event that subscriptions for more than 35,000 Units are received, the Partnership has registered a total of 60,000 Units and has granted to Arch Street, Inc., a right to sell up to 25,000 additional units.

5. Subscriptions for Units must be approved by Arch Street, Inc. (the "Managing General Partner"), and such approval will be made conditional upon representations as to suitability of the investment for each subscriber. The form of subscription agreement for

Units, set forth as Exhibit B to the Prospectus, provides that each subscriber will represent, among other things, that he meets the general investor suitability standards established by the Partnership and set forth under the heading "Who Should Invest." Such general investor suitability standards provide, among other things, that investment in the Partnership is suitable only for an investor (a "Qualified Investor") who meets the following requirements: (a) In the case of an investor that is a corporation, other than a corporation subject to Subchapter S of the Internal Revenue Code of 1986 (a "C Corporation"), such corporation has a net worth of not less than $75,000, or (b) in the case of a noncorporate investor, such investor reasonably expects to have substantial unsheltered passive income or, if an individual, such investor reasonably expects to have adjusted gross income of *less* than $250,000 in the next twelve years and reasonably expects to have income tax liability during those years in respect of which the tax credits can be utilized and either (1) he has a net worth (exclusive of home, furnishings and automobiles) of at least $50,000 ($35,000, if such investor is a resident of New Hampshire) and an annual gross income of not less than $30,000 ($35,000, if such investor is a resident of New Hampshire) in the current year and estimates he will maintain these levels for the twelve succeeding years and that (without regard to investment in the Partnership) some part of his income for the current year and the twelve succeeding years will be subject to Federal income tax at the rate of 28% or more, or (2) irrespective of annual taxable income, he has a net worth (exclusive of home, furnishings and automobiles) of at least $75,000, or is purchasing in a fiduciary capacity for a person or entity having such net worth and annual gross income as set forth in clause (1) or such net worth as set forth in clause (2). Units will be sold in certain states only to persons who meet additional or alternative standards which will be set forth in the Prospectus, any supplement to the Prospectus or the Subscription Agreement; *provided, however,* that in no event shall the Partnership employ any such suitability standard which is less restrictive than that set forth above. Further, it is required that, prior to admission to the Partnership as a limited partner, each proposed assignee must deliver to the Managing General Partner evidence of the suitability of his investment. The Partnership Agreement also imposes certain restrictions on transfer of the Units.

6. The Partnership will be controlled by Arch Street, Inc. and Arch Street Limited Partnership, its general partners (the "General Partners"), and the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnership. Limited Partners owning a majority of Partnership interests will have the right to amend the Partnership Agreement (subject to certain limitations), to remove any General Partner and elect a replacement therefor and to dissolve the Partnership. In addition, under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

7. The Partnership Agreement provides that certain significant actions cannot be taken by the Managing General Partner without the express consent of a majority in interest of the Limited Partners. Such actions include: (a) Sale at any one time of all or substantially all of the assets of the Partnership, except for (1) a sale of any one Local Limited Partnership Interest in a twelve month period or (2) sales in connection with the liquidation and winding up of the Partnership's business upon its dissolution, (b) dissolution of the Partnership and (c) causing the Partnership to merge or be consolidated with any other entity. The admission of a successor or additional General Partner would also require express consent under the Partnership Agreement. For the protection of the Limited Partners, the Managing General Partner and the partners of Arch Street L.P. have agreed that PaineWebber Incorporated, which is expected to act as a soliciting dealer for a majority of the Units, or an affiliated entity controlled by PaineWebber Incorporated (collectively, "PaineWebber") would have the option to become the managing general partner of Arch Street L.P. if certain adverse events occur with respect to the financial condition of Boston Financial. If PaineWebber elects to exercise such option, the Partnership Agreement provides that Arch Street L.P. would become the Managing General Partner of the Partnership. In such circumstances, PaineWebber would purchase a 1% general partner interest in Arch Street L.P. for an agreed price of $100. The remaining 99% economic interest in Arch Street L.P. would be retained by Affiliates of Boston Financial. Such actions would be conditioned upon an opinion of counsel that PaineWebber has sufficient net worth to ensure that the Partnership will continue to be classified as a partnership for Federal income tax purposes. However, there cannot be any assurance that PaineWebber will agree to serve in such role or that it would be able to successfully carry on the business of the Partnership in such an event.

8. Boston Financial Securities, Inc., an affiliate of the General Partners (the "Selling Agent"), will receive customary commissions on the sale of the Units together with an expense allowance to defray accountable due diligence activities. The Selling Agent may authorize other members ("Soliciting Dealers") of the National Association of Securities Dealers, Inc. ("NASD") to sell Units. The Selling Agent will pay a concession to each Soliciting Dealer on all sales of Units by such Soliciting Dealer and may reallow all or any portion of its expense allowance to such Soliciting Dealer. Such selling commissions are customarily charged in securities offerings of this type and are consistent with the guidelines of the NASD.

9. During the offering and organizational phase, the Managing General Partner or its affiliates will receive from the Partnership reimbursement of organizational, offering and selling expenses and an allowance for marketing expenses.

10. Acquisition phase fees payable to all persons, including the General Partners or their affiliates, in connection with the acquisition of interests in Local Limited Partnerships, will be limited by the guidelines adopted by the North American Securities Administrators Association, Inc. applicable to real estate programs in the form of limited partnerships. During the operating phase, the Partnership may pay additional fees or compensation to the General Partners or their Affiliates including without limitation an asset management fee. Such asset management fee is paid in consideration of the administration of the affairs of the Partnership in connection with each Local Limited Partnership in which the Partnership invests. Such other fees may be paid in consideration of property management services rendered by the General Partners or their Affiliates as the management and leasing agent for some of the Local Limited Partnerships and for consulting services rendered by the General Partners or their Affiliates as consultants to some of the Local Limited Partnerships. All such fees shall be subject to the terms of the Partnership Agreements. As well, the

General partners or their Affiliates may receive amounts from Local Limited Partnerships to the extent permitted by applicable law and regulations. Such amounts shall be paid in the event that the General Partners or their Affiliates are Local General Partners and all such amounts shall be subject to the terms of the Partnership Agreement. Compensation to the General Partners or their affiliates during the liquidating stage will be in the form of distributions of the proceeds of the sale or refinancing of Local Limited Partnership projects or interests, or of real or personal property of the Partnership. In addition to the foregoing fees and interests, the General Partners and their affiliates will be allocated generally 1% of profits and losses of the Partnership for tax purposes.

11. The substantial fees and other forms of compensation that will be paid to the General Partners and their affiliates will not have been negotiated through arm's length negotiations. Terms of all such compensation, however, will be fair and not less favorable to the Partnership than would be the case if such terms had been negotiated with independent third parties. In addition, compensation in various forms will be paid to the local general partner of each Local Limited Partnership.

12. The Partnership believes that such compensation meets all applicable guidelines necessary to permit the Units to be offered and sold in the various States which prescribe such guidelines, including without limitation, the statement of policy adopted by the North American Securities Administrators Association, Inc. applicable to real estate programs in the form of limited partnerships.

13. All proceeds of the public offering of Units will initially be placed in an escrow account with Shawmut Bank, N.A. ("Escrow Agent"). Pending release of offering proceeds to the Partnership, the Escrow Agent will deposit escrowed funds in the "Shawmut Interest Bearing Account," a federally insured money market deposit account. The offering of Units will terminate not later than one year from the date upon which the Partnership's Registration Statement shall have been declared effective. If subscriptions for at least 5,000 Units have not been received by such termiantion date, no Units will be sold and funds paid by subscribers will be returned promptly, together with a pro rata share of any interest earned thereon. The Partnership will not accept any subscriptions for Units until the exemptive order applied for herein is granted or the Partnership receives an opinion of counsel that it is exempt from registration under the Act. Upon receipt of the prescribed minimum number of subscriptions, funds in escrow will be released to the Partnership and held in trust pending investment in Local Limited Partnerships. Any net proceeds not immediately utilized to acquire Local Limited Partnership interests or for other Partnership purposes will be invested in highly liquid, non-speculative securities which provide adequately for the preservation of capital. After an intial capital contribution to a Local Limited Partnership, other funds allocated for subsequent investment therein will also be temporarily invested in such securities. Interest earned thereon shall be employed in a manner determined by the General Partners.

14. The Partnership does not intend to trade in such temporary investments or in investments of reserves or of funds allocated for subsequent investment in Local Limited Partnerships and there will be no speculation by the Partnership in any of such investments. Further, the Partnership will own and hold these securities on a temporary basis pending full investment in Local Limited Partnership interests in accordance with the purposes of the Partnership. It is the Partnership's intention to apply capital raised in its public offering to the acquisition of Local Limited Partnership interests as soon as possible.

15. The Partnership expects to file with the Commission, pursuant to section 15(d) of the Securities Exchange Act of 1934 ("Exchange Act"), all required reports. The Partnership will, under the terms of the Partnership Agreement, be required to distribute, among other things, unaudited quarterly financial statements and audited annual financial statements, in each case together with reports summarizing the Partnership's activities.

16. The Partnership Agreement provides that, subject to certain limitations, the Partnership shall indemnify the General Partners and certain affiliates for losses sustained by them or their affiliates in connection with the business of the Partnership provided that the same were not the result of negligence or misconduct on the part of such General Partner or affiliate and were the result of a course of conduct which such General Partner or a designated affiliate, in good faith, determined was in the best interest of the Partnership. Insofar as indemnification for liabilities under the Securities Act may be permitted to the General Partners, however, the Partnership has been advised that in the opinion of the Commission, such indemnification is contrary to public policy as expressed in said Act and is therefore unenforceable.

Applicants' Legal Conclusions

1. Without conceding that the Partnership is an investment company as defined in the 1940 Act, Applicants request that the Partnership be exempted from all provisions of the 1940 Act. The exemption of the Partnership from all provisions of the 1940 Act is both necessary and appropriate in the public interest, because: (a) Investment in low and moderate income housing in accordance with the national policy expressed in Title IX is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form; (b) the limited partnership structure provides the only means of bringing private equity capital into such housing; (c) the limited partnership form insulates each limited partner from personal liability and limits financial risk incurred by the limited partner to the amount he has invested in the program,, while also allowing the limited partner to claim on his individual tax return his proportionate share of the credits, income and losses from the investment; (d) the limited partnership form of organization is incompatible with fundamental provisions of the 1940 Act, such as the requirement of annual approval by investors of a management contract and the requirements concerning election of directors and the termination of the management contract; and (e) real estate limited partnerships such as the Partnership generally cannot comply with the asset coverage limitations imposed by Section 18 of the 1940 Act. Thus, an exemption from these basic provisions is necessary, and it is appropriate that such exemption be granted so as not to discourage use of the two-tier limited partnership entity or frustrate the public policy established by the housing laws.

2. Interests in the Partnership will be sold only to (and transfers will be permitted only to) investors who meet specified suitability standards (as described above) which the Partnership believes are consistent with the requirements in Investment Company Act Release No. 8456 (August 9, 1974) ("Release No. 8456"), with the guidelines of those states which prescribe suitability standards and with the securities laws of all states where the Units will be sold. Such investors will receive extensive reports concerning the

Partnership's business and operations. Although the interests of the General Partners and their affiliates may conflict in various ways with the interests of Limited Partners, Limited Partners are adequately protected through disclosure in the Prospectus. To address this conflict, the General Partners agree, in Section 5.7 of the Partnership Agreement, that each General Partner and each Affiliate of each General Partner, prior to entering into an investment which could be suitable for the Partnership or recommending such investment to others, must present to the Partnership the opportunity to enter into such investment and may not enter into such investment on its own behalf nor recommend it to others unless the Partnership has declined to enter into such investment. Further protection for the interests of Limited Partners is provided by the numerous provisions of the Partnership Agreement designed to prevent over-reaching by the General Partners and to assure fair dealing by the General Partners vis-a-vis the Limited Partners.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-15903 Filed 7-13-88; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 305-32]

Request for Information Regarding Obtaining and Enforcing Patents in Korea

AGENCY: Office of the United States Trade Representative.

ACTION: Request for submissions from the public regarding experiences in obtaining and enforcing patent rights in the Republic of Korea (Korea).

SUMMARY: On June 13, 1988, United States Trade Representative Clayton Yeutter established an Interagency Fact-Finding Task Force to examine practices and policies of the Republic of Korea related to obtaining and enforcing patent rights. The Task Force was set up under section 305 of the Trade Act of 1974, 19 U.S.C. 2415, in response to concerns expressed by U.S. companies that obtaining patent protection in Korea was unusually difficult and that patent rights, once obtained, did not provide adequate and effective protection due to lack of proper enforcement.

The Task Force is seeking information from the public regarding specified issues. Submissions to the U.S. Patent and Trademark Office must be made by Aug. 15, 1988.

FOR FURTHER INFORMATION CONTACT: Documents and questions should be submitted to H. Dieter Hoinkes, Office of Legislation and International Affairs, Box 4, Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The Task Force will examine the validity of these concerns with a view to determining whether the complaints are isolated cases or part of a broader problem representing discriminatory treatment of foreign patent applicants and patent owners in Korea or deficiencies in the patent enforcement system. To accomplish this, the Task Force needs to obtain factual information from patent applicants and owners documenting their experiences relating to the protection of their patent rights in Korea. Information serving to establish the pattern for Korean patent treatment of foreign patentees and applicants is desired. Evidence intended to demonstrate improper or discriminatory patent treatment should be documented and show, or tend to show, that such practices and procedures are clearly contrary to the apparent meaning of Korean patent laws or to generally accepted standards followed by the United States and its other trading partners.

Specifically, the Task Force seeks information about:

(1) The treatment of foreign patent applicants (as both petitioners and respondents) by the Korean Office of Patents Administration, including experiences where foreign applicants had their patent applications appropriately or inappropriately granted or denied;

(2) The treatment of foreign patent applicants and owners by the Korean judicial system, including the fairness of the procedures for plaintiffs as well as defendants;

(3) The frequency of granting and denying patent applications submitted by Korean as compared to foreign applicants, so as to indicate the existence or non-existence of a systemic bias by Korean administrative or judicial bodies.

All documents must be in English and thoroughly legible. Although it is not possible to specify the exact documentary evidence required in each case, the materials provided should be sufficient to enable experts and examiners of the U.S. Patent and Trademark Office of evaluate the specific allegation of unfair treatment under the Korean patent law and generally prevailing standards of practice in the area.

For example, if a complainant believes the Korean Patent Office unevenly applied the patentability criterion of unobviousness, the documents submitted to the Task Force should include a recitation of the specific circumstances and facts, supported by copies of the relevant patent application, references cited against the particular claim in question, relevant communications between the applicant and the Korean Patent Office, and decisions affirming the Korean patent examiner's position. If the same claim or one substantially identical to the claim rejected in Korea was allowed by the patent office of another country that conducts examination for patentability, documents to that effect should be submitted also. If, in the alternative, a claim was allowed to a Korean national that, applying prevailing standards, a complainant believes should not have been allowed, similar documentation should be submitted including, where possible, copies of any published unexamined applications and/or patents on the same subject matter granted to the Korean national in other patent examining countries that would demonstrate that the particular claim in question was not allowed there.

The mandate of the Task Force does not include assistance to patent applicants to obtain patents or prosecute applications presently pending before the Korean Office of Patents Administration. Similarly, the Task Force will not intervene in actual court proceedings on behalf of an individual patent owner. The purpose of the Task Force is simply to determine whether there is any evidence of a systemic problem in the granting and enforcement of patents in Korea.

We anticipate that submissions will consist of documents that do not contain proprietary information and therefore these documents will not be accorded confidential treatment. It should also be noted that information submitted may be disclosed to the Korean government.

Ambassador Yeutter has requested that the Task Force provide him with a preliminary report by Dec. 1, 1988. Accordingly, submissions to the Task Force must be made by Aug. 15, 1988, to permit adequate time for review. The Task Force reserves to right to determine which submissions it will use for investigation. Further, any determination by the Task Force regarding Korean practices or

procedures in patent matters remains strictly within its purview and is not subject to further review by any other body or person.

Peter Allgeier,

Assistant U.S. Trade Representative for Asia and the Pacific.

[FR Doc. 88-15940 Filed 7-13-88; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review Indianapolis International Airport, Indiana

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Indianapolis Airport Authority for Indianapolis International Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Indianapolis International Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before December 21, 1988.

DATES: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is June 24, 1988. The public comment period ends July 24, 1988.

FOR FURTHER INFORMATION CONTACT: Prescott C. Snyder, Federal Aviation Administration, Great Lakes Region, Airports Division, AGL-611, 2300 East Devon Avenue, Des Plaines, Illinois 60018, (312) 694-7538.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Indianapolis International Airport are in compliance with applicable requirements of Part 150, effective June 24, 1988. Further, the FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before December 21, 1988. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of the Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for the FAA's approval which sets forth the measures the operator has taken, or proposes, for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

Indianapolis Airport Authority submitted to the FAA on May 22, 1987 noise exposure maps, descriptions and other documentation which were produced during the Airport Noise Compatibility Planning (Part 150) Study at Indianapolis International Airport from May 1986 to May 1987. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Indianapolis Airport Authority. The specific maps under consideration are Noise Exposure Maps: Current Unabated Conditions, Part A and B and 1992 Unabated Conditions, Part A and B. They are included along with supporting documentation found in the Part I Noise Exposure Map Documentation of the Part 150 Study in the submission. The FAA has determined that these maps for Indianapolis International Airport are in compliance with applicable requirements. This determination is effective on June 24, 1988. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator who submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Indianapolis International Airport, also effective on June 24, 1988. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before December 21, 1988.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of

the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue SW., Room 617, Washington, DC 20591

Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, Room 261, Des Plaines, Illinois 60018

Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Room 260, Des Plaines, Illinois 60018

Indianapolis Aviation Administration, Indianapolis International Airport, Indianapolis, Indiana 46251.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Des Plaines, Illinois, June 24, 1988.

William H. Pollard,

Director, Great Lakes Region.

[FR Doc. 88-15815 Filed 7-13-88; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-88-26]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: August 3, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on July 8, 1988.

Denise D. Hall,

Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
25050	Wrangler Aviation, Inc	14 CFR 121.371(a)	To allow petitioner to contract with certain foreign countries for the maintenance, repair, overload, and modification of engines, propellers, and other systems and component of the Canadair CL-44 aircraft and to purchase CL-44 parts from certain foreign suppliers.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought, disposition
23771	Cessna Aircraft Company	14 CFR 91.213 and 91.31	To amend Exemption No. 4050B, as amended, that allows operators of Cessna Models 550, S550, and 552 to operate the aircraft without a second in command, subject to certain conditions and limitations. *GRANT, June 30, 1988, Exemption No. 4050D.*
24256	Dalfort Corporation	14 CFR 61.57(a)(1), (c), and (d); 61.58(c)(1) and (d); 61.63(d) (2) and (3); 61.67(d)(2); Part 61, Appendix A; and Part 121, Appendix H.	To allow: (1) Certain in-flight checking requirements of Part 61 to be accomplished in FAA-approved simulators; (2) approval of petitioner's B-727-200, B-747-200, and DC-8 simulators without meeting the certificate-holding requirement of § 121.496; (3) the use of instructors who have not been employed by petitioner for at least 1 year in the capacity of an instructor, pilot in command, or second in command of an airplane of the same group in which they are instructing or checking and without its pilot instructors participating in an FAA-approved line flying program or line observation program; and (4) petitioner to conduct Phase II training for airline operators using petitioner's approved training programs. *GRANT, June 29, 1988, Exemption No. 4955.*
25450	Air Specialties Corporation dba Air America.	14 CFR 121.371(a)	To allow petitioner to contract with Hong Kong Aircraft Engineering Company to perform repairs, engine module refurbishment, and component overhauls on two of its Rolls-Royce RB211-22B engines utilized on petitioner's L-1011 aircraft. *GRANT, July 1, 1988, Exemption No. 4956.*

[FR Doc. 88-15816 Filed 7-13-88; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Dade County, FL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescind notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will not be prepared for a proposed highway project in Dade County, Florida.

FOR FURTHER INFORMATION CONTACT: R.V. Robertson, District Engineer, Federal Highway Administration, 227 North Bronough Street, Room 2015, Tallahassee, Florida 32201, Telephone: (904) 681–7236.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare an Environmental Impact Statement (EIS) for a proposed highway project to improve SR–932 in Dade County, Florida, was issued on July 8, 1987 and published in the July 17, 1987 **Federal Register**. The FHWA, in cooperation with the FLorida Department of Transportation, has since determined that preparation of an EIS is not necessary for this proposed highway project and hereby rescinds the previous Notice of Intent. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Issued on: July 7, 1987.

R. V. Robertson,

District Engineer, Tallahssee, Florida.

[FR Doc. 88–15071 Filed 7–13–88; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Navarro County, TX

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Navarro County, TX.

FOR FURTHER INFORMATION CONTACT: W.L. Hall, Jr., P.E., District Engineer, Federal Highway Administration, 826 Federal Building, Austin, Texas 78701, Telephone: 512–482–5988.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the State Department of Highways and Public Transportation of Texas, will prepare an Environmental Impact Statement (EIS) on a proposal to construct a bypass on State Highway 31 (S.H. 31) around Corsicana in Navarro County, Texas. The proposed project consists of selecting a corridor to be reserved for a divided highway from west of Corsicana's Central Business District to Interstate Highway 45 (IH 45). The proposed facility will be a four-lane divided highway on new location, with a 76-foot wide median. Two 12-foot lanes with 10-foot outside and four-foot inside shoulders will be provided in each direction.

The existing S.H. 31 provides a major transportation corridor from Waco to Tyler, with north-south access to Dallas and Houston through the U.S. 75 and I.H. 45 intersections. Through the Central Business District of Corsicana, the existing roadway creates a problem of traffic congestion. The present route is burdened with eight traffic signals, one school zone, and unprotected left turns. The narrow right-of-way does not provide sufficient area for development of the required improvements. Business and residential developments are built near the right-of-way and would be disrupted by acquisition of additional right-of-way. The facility does not meet the current design standards for capacity or safety.

The proposed project will ease the traffic congestion in the downtown area and simultaneously provide a continuous external route with direct connection to IH 45.

The proposal offers 3 routes; Routes 1 and 2, which are respectfully 5.7 miles and 3.7 miles in length, provide for a southerly by-pass and will pass through sections of the cities of Corsicana and Retreat. Route 3, which is 8 miles in length, provides for a northerly by-pass and will pass through the northern section of the City of Corsicana. In addition to these corridors, an alternative exists to use the existing facility through Corsicana. The no improvement, or the "no-build" option would result in increased traffic congestion due to increased traffic volume, or would compel traffic to find less desirable routes other than the proposed project.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A public meeting was held on January 29, 1987, for the proposed action. A public hearing will also be held. Public notice will be given as to the time and place of the hearing. The draft EIS will be available for public and agency review prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: July 6, 1988.

W.L. Hall, Jr.,

District Engineer, Austin, Texas.

[FR Doc. 88–15783 Filed 7–13–88; 8:45 am]

BILLING CODE 4910–22–M

Urban Mass Transportation Administration

UMTA Section 3 and 9 Grant Obligations

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation and Related Agencies Appropriations Act, 1988, included in the Omnibus Appropriations Act, Pub. L. 100–202 signed into law by President Reagan on December 22, 1987, contained a provision requiring the Urban Mass Transportation Administration to publish an announcement in the **FEDERAL REGISTER** each time a grant is obligated pursuant to Sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property receiving each grant. This notice provides the information as required by statute.

FOR FURTHER INFORMATION CONTACT: Edward R. Fleischman, Chief, Resource Management Division, Department of Transportation, Urban Mass Transportation Administration, Office of Grants Management, 400 Seventh Street SW., Room 9305, Washington, DC 20590, (202) 366–2053.

SUPPLEMENTARY INFORMATION: The section 3 program was established by the Urban Mass Transportation Act of 1964 to provide capital assistance to eligible recipients in urban areas. Funding for this program is distributed on a discretionary basis. The section 9 formula program was established by the Surface Transportation Assistance Act

of 1982. Funds appropriated to this program are allocated on a formula basis to provide capital and operating assistance in urbanized areas. Pursuant to the statute UMTA reports the following grant information.

Transit property	Grant number	Grant amount	Obligation date
Section 3 Grants			
Town of Vail, Vail, CO	CO-03-0041-01	$697,125	Apr. 30, 1988.
City of Charlotte, Charlotte, NC	NC-03-0023	$930,000	June 8, 1988.
Section 9 Grants			
City of Napa, Napa, CA	CA-90-X237-02	$16,311	Apr. 21, 1988.
Ann Arbor Transportation Authority, Ann Arbor, MI	MI-90-X037-01	$28,592	Apr. 27, 1988.

Issued on: June 28, 1988.

Alfred A. Dellibovi,

Administrator.

[FR Doc. 88-15904 Filed 7-13-88; 8:45 am]

BILLING CODE 4910-57-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "DEGAS" (see list)[1] imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art in New York, New York, beginning on or about October 11, 1988, to on or about January 8, 1989, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

R. Wallace Stuart,

Acting General Counsel.

Date: July 8, 1988.

[FR Doc. 88-15799 Filed 7-13-88; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202-485-7988, and the address is Room 700, U.S. Information Agency, 301 4th Street SW., Washington, DC 20547.

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from John Turner, Department of Veterans Benefits (203C), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233-2744.

Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 15, 1988.

Dated: June 30, 1988.

By direction of the Administrator.

Frank E. Lalley,

Director, Office of Information Management and Statistics.

New

1. Department of Veterans Benefits.
2. Marital Status Questionnaire.
3. VA Form 21-0537.
4. This form is used to request certification of a continued unremarried status by surviving spouses in receipt of Dependency and Indemnity Compensation.
5. Triennially.
6. Individuals or households.
7. 88,000 responses.
8. 14,667 hours.
9. Not applicable.

[FR Doc. 88-15749 Filed 7-13-88; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 135
Thursday, July 14, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM

Committee on Employee Benefits

TIME AND DATE: 9:00 a.m., Tuesday, July 19, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. The Committee's agenda will consist of matters relating to: (a) The general administrative policies and procedures of the Retirement Plan, Thrift Plan, Long-Term Disability Income Plan, and Insurance Plan for Employees of the Federal Reserve System; (b) general supervision of the operations of the Plans; (c) the maintenance of proper accounts and accounting procedures in respect to the Plans; (d) the preparation and submission of an annual report on the operations of each of such Plans; (e) the maintenance and staffing of the Office of the Federal Reserve Employee Benefits System; and (f) the arrangement for such legal, actuarial, accounting, administrative, and other services as the Committee deems necessary to carry out the provisions of the Plans.

Specific item is: Amendment to the Life and Survivor Income Plan.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Date: July 12, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-15925 Filed 7-12-88; 11:17 am]

BILLING CODE 6210-01-M

NEIGHBORHOOD REINVESTMENT CORPORATION

Personnel Committee Meeting

TIME AND DATE: 4:00 p.m., Monday, July 18, 1988.

PLACE: National Credit Union Administration, 1776 G Street, NW., Chairman's Conference Room, 6th Floor, Washington, DC 20456.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Bonnie Nance Frazier, Director of Communications, 376-3224.

AGENDA:

1. Approval of Officer Performance Objectives.
2. Recommendation of Officer Merit Award Pool.

Carol J. McCabe,

Secretary.

[FR Doc. 88-15892 Filed 7-11-88; 5:12 pm]

BILLING CODE 7570-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of July 11, 1988.

A closed meeting will be held on Tuesday, July 12, 1988, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Security of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 12, 1988, at 2:30 p.m., will be:

Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Formal orders of investigation.
Settlement of injunctive actions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Morris at (202) 272-2468.

Jonathan G. Katz,

Secretary.

July 8, 1988.

[FR Doc. 88-15897 Filed 7-11-88; 5:13 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 53, No. 135
Thursday, July 14, 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.

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53104; FRL-3393-9]

Premanufacture Notices; Monthly Status Report for March 1988

Correction

In notice document 88-12887 beginning on page 25408 in the issue of Wednesday, July 6, 1988, make the following corrections:

1. On page 25409, in the second column, in the sixth line from the bottom, "P 87-1882" should read "P 87-1882".

2. On page 25411, in table IV, under "Date of commencement", in the 25th line from the bottom, "Do." should read "Feb. 17, 1988."

3. On the same page, in the same table, under "Identity/generic name", in the 10th line from the bottom, the last word should read "titanate".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53105; FRL-3403-4]

Premanufacture Notices; Monthly Status Report for April 1988

Correction

In notice document 88-14150 beginning on page 25414 in the issue of Wednesday, July 6, 1988, make the following correction:

On page 25416, in table IV., under "Identity/Generic name", in the 12th line, "-aryl-3-3-hydroxy" should read "-aryl-3-hydroxy".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53106; FRL-3405-8]

Premanufacture Notices; Monthly Status Report for May 1988

Correction

In notice document 88-14380, beginning on page 25418 in the issue of Wednesday, July 6, 1988, make the following correction:

On page 25420, in table IV., under "Identity/generic name", in the last line, "alkyd. resin" should read "alkyd resin".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430, 436, and 442

[Docket No. 88N-0121]

Antibiotic Drugs; Cefixime Trihydrate; Cefixime Trihydrate Tablets and Cefixime Trihydrate Powder for Oral Suspension

Correction

In rule document 88-14119 beginning on page 24256 in the issue of Tuesday, June 28, 1988, make the following corrections:

§ 430.4 [Corrected]

1. On page 24257, in the first column, in § 430.4(a)(59), in the seventh line, "carboxymethoxy)imino" was misspelled.

§ 436.215 [Corrected]

2. On the same page, in the same column, in § 436.215(c), paragraph "(101)" should read "(10)".

3. On the same page, in the same column, in § 436.215(c)(10)(iii), in the fourth line, "peak of" should read "peak at".

§ 442.15 [Corrected]

4. On the same page, in the third column, in § 442.15(a)(3)(i), in the second line, "of" should read "for".

5. On the same page, in the same column, in § 442.15(b)(1), in the fourth line, "direction" should read "detection".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 411

[BERC-302-P]

Medicare as Secondary Payer and Medicare Recovery Against Third Parties

Correction

In proposed rule document 88-13226 beginning on page 22335 in the issue of Wednesday, June 15, 1988, make the following corrections:

§ 411.15 [Corrected]

1. On page 22347, in the first column, in § 411.15(l)(1)(ii), in the third line, remove "Z".

2. On the same page, in the same column, in § 411.15(m)(2)(i), in the fifth line, "asthetist" should read "anesthetist".

§ 411.21 [Corrected]

3. On the same page, in the second column, in § 411.21, make the following corrections:

a. In the definition for "*Conditional payment*", in the seventh line, "known" should read "know".

b. In the definition for "*Proper claim*", in the first line, "if" should read "is".

§ 411.24 [Corrected]

4. On the same page, in the third column, in § 411.24(a), in the fifth line, "and" should read "any".

5. On the same page, in the same column, in § 411.24(c), in the first line, "and" should read "an"; and in the second line, the first "ot" should read "to" and the second "ot" should read "or".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-940-08-4220-11; NM NM 024545]

Proposed Continuation of Withdrawal; New Mexico

Correction

In notice document 88-14779 beginning on page 24807 in the issue of Thursday,

June 30, 1988, make the following correction:

On page 24807, in the third column, in the land description, in the last line, "W½SE¼" should read "W½NE¼".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

[CFDA No: 84.202]

Notice Inviting Applications for New Awards for Fiscal Year 1988 Under the Grants to Institutions to Encourage Minority Participation in Graduate Education Program

Correction

In notice document 88-15451 beginning on page 25653 in the issue of Friday, July 8, 1988, on page 25657, in the first column, **Part II-Budget Information** should have been photographed. The photographed information follows.

PART II - BUDGET INFORMATION

GRANTS TO INSTITUTIONS TO ENCOURAGE MINORITY PARTICIPATION IN GRADUATE EDUCATION

AWARDS MADE TO INSTITUTIONS UNDER THIS PROGRAM MUST BE USED EXCLUSIVELY TO PROVIDE DIRECT FELLOWSHIP AID. INCLUDE BELOW THE BREAKDOWN OF FEDERAL FUNDS REQUESTED FOR STUDENT EXPENSES:

	TOTAL COSTS
STIPENDS:*	
A. TUITION	
B. ROOM AND BOARD	
C. TRANSPORTATION	
D. OTHER APPLICABLE EXPENSES	
TOTAL FEDERAL REQUEST	
TOTAL NUMBER OF FELLOWSHIPS REQUESTED	
NUMBER OF WEEKS OF SEMINAR/INSTITUTE	

LIST ACADEMIC AREA or AREAS:

INSTRUCTION:

* CALCULATE EACH STUDENT'S NEED-BASED STIPEND FOR APPLICABLE EXPENSES, INCLUDING ROOM AND BOARD, TRANSPORTATION AND TUITION FOR COURSES FOR WHICH CREDIT IS GIVEN, FOLLOWING THE PROCEDURES USED BY THE APPLICANT'S STUDENT FINANCIAL AID OFFICE. THE STUDENTS' NEED SHOULD BE CALCULATED PURSUANT TO PART F OF TITLE IV OF THE HIGHER EDUCATION ACT OF 1965, AS AMENDED.

INDICATE WITHIN THE TOTAL COST OF THE STIPENDS THE AMOUNTS CHARGED FOR EACH OF THE SPECIFIC CATEGORIES LISTED ABOVE.

C. TRANSPORTATION COSTS MAY INCLUDE THE COST OF ONE ROUND-TRIP FROM THE STUDENT'S RESIDENCE TO CAMPUS AND RETURN, IF APPLICABLE, AND OTHER TRAVEL REQUIRED AS PART OF THE PROGRAM OF STUDY.

BILLING CODE 1505-01-D

federal register

Thursday
July 14, 1988

Part II

Securities and Exchange Commission

17 CFR Parts 229 and 230

Acquisitions By Limited Partnerships In Specified Industries; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229 and 230

[Release No. 33-6784; S7-12-88]

Acquisitions By Limited Partnerships In Specified Industries

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing for comment alternative forms of a new Rule 465 that would provide for the automatic effectiveness of post-effective amendments filed by a limited partnership during the distribution period, provided that such amendments relate to significant acquisitions and contain required financial statements, financial information and textual information ("required acquisition information"). The proposed Rule could be used by limited partnerships formed for the purpose of making acquisitions solely in one of the specified industries, provided the effective registration statement included specific disclosure concerning the acquisition policy of the registrant and the nature of the acquisitions to be pursued. The specified industries do not include real estate, for which distinctive procedures are provided by Industry Guide 5, but comment is solicited on whether real estate instead should be subject to proposed Rule 465.

Under Alternative I, offers and sales of limited partnerships could continue after an acquisition became probable if the prospectus used was supplemented with all required acquisition information. A post-effective amendment including such information would be required to be filed no later than five business days after the acquisition became probable. Failure to file such post-effective amendment would require offers and sales to be suspended until the post-effective amendment was field.

Under Alternative II, offers and sales could continue once an acquisition became probable, if the prospectus used was supplemented with any of the required acquisition information available to the registrant. This alternative would require that offers and sales be suspended if the post-effective amendment containing the required acquisition information was not filed by the earlier of five business days after the required financial statements became available or five business days after the signing of a binding purchase agreement.

Finally, an amendment to Rule 424 regarding the filing of prospectus supplements pursuant to proposed Rule 465 is being proposed.

DATE: Comments should be received by September 12, 1988.

ADDRESS: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Comment letters should refer to File No. S7-12-88. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Sarah A. Miller or Alexander G. Shtofman, Office of Disclosure Policy, Division of Corporation Finance, at (202) 272-2589, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is proposing for comment alternative versions of proposed new Rule 465 under the Securities Act of 1933 ("Securities Act"),[1] a new paragraph (b)(6) for filing prospectuses under Rule 424,[2] and technical revisions to Industry Guide 5 [3] and Rule 406.[4]

I. Introduction and Background

Representatives of the general partner of various partnerships engaged in the business of acquiring cable television systems have advised the Commission staff that current procedures for updating registration statements to reflect significant acquisitions made during the usually extended offering period for their securities present significant practical difficulties. Current procedures require that, during any period in which offers or sales are being made, registrants file a post-effective amendment to reflect any facts or events arising after the effective date of the registration statement that, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement.[5] A significant acquisition [6] not disclosed in the registration statement prior to effectiveness, or a series of acquisitions that is significant in the aggregate, constitutes a fundamental change for purposes of Item 512(a)(1)(ii) of Regulation S-K.[7]

By the very nature of these "blind pool" limited partnership offerings,[8] the precise use of proceeds is not known at effectiveness and, thus, information regarding the specific use of proceeds cannot be disclosed in the original registration statement. Accordingly, an issuer of limited partnership interests offered on a continuous basis pursuant to Rule 415 [9] continually must file post-effective amendments to the registration statement to reflect significant acquisitions by the partnership. Usually, the greatest impact is early on in the offering period when it is more likely that acquisitions will fall within the significant category. Sales of partnership interests must be stopped from the time that a significant acquisition becomes probable until a post-effective amendment, including full audited financial statements of the business being acquired and pro forma financial information,[10] is declared effective.[11] Such suspensions not only can be for extended periods of time, but can be numerous due to the frequency of acquisition activity.

The Commission previously has addressed similar problems in the real estate industry with the adoption of the procedures outlined in Industry Guide 5. Rather than following the post-effective amendment procedures generally applicable to continuous offerings, real estate limited partnerships [12] are

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[1] 15 U.S.C. 77a, *et seq.*

[2] 17 CFR 230.424.

[3] "Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships" [17 CFR 229.801(e)].

[4] 17 CFR 230.406.

[5] Item 512(a)(1)(ii) of Regulation S-K [17 CFR 229.512(a)(1)(ii)].

[6] Item 2 of Form 8-K [17 CFR 249.308] requires the filing of a current report on that form if the registrant has acquired a significant amount of assets otherwise than in the ordinary course of business. Instruction 4 to Item 2 provides that an acquisition of a business is deemed to involve a significant amount of assets if the business is "significant" as defined in Rule 11-01(b) of Regulation S-X [17 CFR 210.11-01(b)]. *See also* Rule 1-02(v) [17 CFR 210.1-02(v)] defining "significant subsidiary."

[7] *See* Release No. 33-6383, Part IV.B.2, text at n.80 (March 16, 1982) [51 FR 11380].

[8] As used in this release, "blind pool" refers to an offering that does not have a material portion of the maximum net proceeds committed at the time of effectiveness. Such an offering does, however, include specific disclosure regarding the industries in which it will invest and, if made in reliance on the proposed Rule, would be limited to one of the specified industries and would disclose explicit investment objectives and criteria. In contrast, a "blank check" offering does not disclose the particular industries in which acquisitions will be made nor does it specify explicit guidelines for acquisitions. *See* discussion *infra*, II.A., II.B.3.

[9] 17 CFR 230.415.

[10] *See* Rule 3-05 and Article 11 of Regulation S-X [17 CFR 210.3-05 and 210.11-01 through 210.11-03].

[11] Offers also must be suspended until the filing of the post-effective amendment.

[12] The procedure has been extended through staff interpretation to blind pool real estate investment trusts.

permitted to file a prospectus supplement pursuant to Rule 424 [13] describing each property not identified in the prospectus when it becomes reasonably probable that such property will be acquired.[14] Such supplements need not include financial statements. Instead, a post-effective amendment that includes audited financial statements meeting the requirements of Rule 3–14 of Regulation S–X [15] for acquired properties is filed by the registrant at least every three months if an acquisition has been consummated during the period.[16] If all of the information contained in the most recently filed post-effective amendment is disclosed in a current supplement accompanying the prospectus, sales of partnership interests may continue pending effectiveness of the post-effective amendment.[17] Consequently, no halt in the retail sales effort need occur as a result of pursuing real estate acquisitions during the distribution.[18]

Proposed Rule 465 would address the issues raised by acquisitions during the offering period for other industries that customarily make public offerings by means of blind pool single purpose limited partnerships, in which the serial acquisition of business and properties is a primary element of the entities' business. Relief in this area appears to be justified by the nature of the business of these limited partnerships (which, in effect, is to acquire businesses or properties), the facts that few or no assets are owned at effectiveness and that acquisitions during the offering are numerous and frequent, and the likelihood that the acquisitions will be of a size that would require post-effective amendments. The proposed Rule would not apply to blank check offerings, however.[19]

The proposed approach differs in a number of respects from the treatment currently accorded to real estate limited partnerships. Unlike the procedures for real estate limited to partnerships, the proposed Rule would require the post-effective amendment to be filed prior to consummation of the acquisition. The post-effective amendment would become effective automatically. In contrast, a real estate limited partnership is required to file a post-effective amendment at least every three months, but only if an acquisition has been consummated during that period. Although offers and sales of real estate limited partnership offerings are not halted upon filing a post-effective amendment, the post-effective amendment is not immediately effective and may be selected for staff review and comment. Since the post-effective amendment would be filed earlier under proposed Rule 465 than is required for real estate limited partnerships, the information regarding the acquisition also would become part of the registration statement and thus subject to liability under section 11 of the Securities Act [20] at an earlier point in time.

Moreover, proposed Rule 465 would require the prospectus supplement to disclose specified information regarding the acquisition, while Industry Guide 5 merely requires the prospectus supplement to describe the property to be acquired. Consequently, the proposed Rule provides for more extensive prospectus disclosure to investors than is required for real estate limited partnerships. The proposed Rule is intended to provide sufficient flexibility to limited partnership sponsors in connection with their marketing efforts while, at the same time, assuring timely disclosure to investors and earlier inclusion of the specified information regarding the acquisition in the registration statement.

Specific comment is solicited on whether it is appropriate to treat real estate limited partnership offerings differently from those in other industries, and whether the approach proposed should be extended to real estate limited partnership offerings. If the Commission determined that the approach proposed herein should be extended to real estate, the proposed rule would be amended to refer to real estate limited partnerships, and Industry Guide 5, in particular Item 20, would be revised accordingly.[21]

II. Discussion of Proposed Rule 465

A. Overview of Alternatives

Rule 465 would be available to limited partnership offerings that the specify that the proceeds are to be used to make acquisitions [22] solely in one of the following: Hotels, nursing homes, oil and gas programs, self-service storage facilities, cable television systems, television or radio broadcast facilities, power generating facilities, or equipment to be leased.[23] In the event that the registrant wishes to rely on Rule 465 with respect to acquisitions occurring subsequent to effectiveness, the cover sheet of the registration statement would have to so state at the bottom of the page at the time of effectiveness.[24]

The Rule would be available only when the nature of acquisitions to be pursued is disclosed in the registration statement. The registration statement would be required to specify the investment criteria and objectives for determining individual businesses that would be considered for acquisition, including such factors as geographical location of the businesses expected to be acquired, the size of such businesses, and whether such businesses would be established or in a start-up phase.[25]

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[13] The Commission proposes to change current references in Industry Guide 5 to Rule 424(c) (rather than Rule 424(b)) to reflect the recent revisions to Rule 424. *See* Release No. 33–6714 (May 27, 1987) [52 FR 21252].

[14] *See* Undertaking D of Item 20 of Industry Guide 5.

[15] 17 CFR 210.3–14. Where applicable, pro forma financial information also is required under Article 11 of Regulation S–X for real estate limited partnership acquisitions.

[16] Under staff interpretation of Undertaking D of Item 20 of Industry Guide 5, the three month period for the filing of a post-effective amendment starts to run from the date that the initial property is acquired, rather than the date the first prospectus supplement is filed. Additional post-effective amendments are subsequently due every three months thereafter. However, if no acquisition has been consummated during the three months following the filing of a previous amendment, no post-effective amendment need be filed by the end of the three month period (whether or not a prospectus has been filed to describe a probable acquisition).

[17] The prospectus would have to be supplemented further to reflect the occurrence of material events after the filing of the post-effective amendment.

[18] *See infra* II.D.1., "Relationship between Prospectus Disclosure and Form 8–K Disclosure of Acquisitions: Current System," for a discussion of the relationship between the requirements of Form 8–K and Industry Guide 5.

[19] *See* discussion *infra* II.B.3.

[20] 15 U.S.C. 77k. *See* discussion *infra* at II.C.

[21] The North American Securities Administrators Association ("NASAA") Policy Statement on Real Estate Programs [NASAA REPORTS (CCH) ¶¶ 3601–3611] also could be affected.

[22] The Rule would be available only for amendments filed to reflect acquisitions, not for those including other information requiring an amendment, such as updating pursuant to Section 10(a)(3) of the Securities Act [15 U.S.C. 77j(a)(3)] or Item 512 of Regulation S–K [17 CFR 229.512] (aside from Item 512(a)(1)(ii) requirements insofar as they relate to the acquisitions).

[23] The Rule would not be available if the registrant did not offer the securities for cash but, instead, as consideration for the acquisition. For such requirements, *see* Form S–4 [17 CFR 239.25] and Service Corporation International (available December 2, 1985). Rather, the Rule is intended to cover typical blind pool limited partnership acquisitions of properties. *See* proposed Rule 465(a)(3) (Alternatives I and II).

[24] Proposed Rule 465(a)(4) (Alternatives I and II).

As used in proposed Rule 465(a), the registration statement at the time of effectiveness would include any post-effective amendment that is declared effective and otherwise meets the requirements of the rule.

[25] While to use proposed Rule 465 the registration statement must disclose the specific investment objectives and criteria of the limited partnership, the Rule otherwise would not alter the information that must be included in the registration statement at effectiveness. Thus, required information

Continued

This disclosure would include the amount or percentage of proceeds to be allocated to each investment criterion and objective where more than one is stated. If the partnership's investment criteria and objectives were subject to amendment during the course of the distribution, the proposed Rule would not be available from the time the determination to amend the criteria or objectives was made until a post-effective amendment reflecting the new criteria or objectives was filed and declared effective.[26] At that point, Rule 465 procedures could be used once more.

Under both versions of proposed Rule 465, an acquisition related post-effective amendment filed by a qualifying limited partnership would become effective upon filing, and sales of partnership interests could continue uninterrupted provided the requisite prospectus supplement were used.[27] Both alternatives would require registrants to supplement the prospectus to provide specified information concerning the acquisition once it became probable.[28] The alternative proposals differ principally as to the extent of information required in the supplement and the timing required for the post-effective amendment [29] containing financial statements of the acquired business or property, pro forma financial information, and appropriate textual disclosure, collectively referred to as "required acquisition information." [30] While the Commission is proposing the two alternatives for comment, it may adopt a Rule that combines elements of both alternatives.

Alternative I would require the supplement to contain all of the required acquisition information, including the required financial statements and financial information. Alternative II would require the prospectus supplement to include any required acquisition information available [31] to the registrant. In the event the required historical financial statements of the acquired business or property were not immediately available, the prospectus would be required to be supplemented with that information as soon as it became available. With regard to both alternatives, failure to update the prospectus appropriately would require the sales effort to be suspended.

With regard to the post-effective amendment, Alternative I would require that a post-effective amendment containing the required acquisition information be filed no later than five business days after the acquisition became probable; otherwise offers and sales would have to be suspended from the time the post-effective amendment was required to be filed until such time as it actually was filed.[32]

In contrast, under Alternative II, the post-effective amendment containing the required acquisition information would not be required until the fifth business day following the availability of the required historical financial statements,[33] but in no event later than the fifth business day after the parties have signed a binding purchase agreement [34] with respect to the acquisition.[35] As under Alternative I, Alternative II would require that offers and sales be suspended from the time the post-effective amendment was required to be filed until such time as it actually was filed.[36]

Alternative I presupposes that in negotiating the acquisition, the acquiring company will have obtained required financial statements of the target company prior to the acquisition becoming probable. Alternative II, on the other hand, presupposes that, in some cases, the required financial statements will not be available to the acquiring company when it decides to proceed with the acquisition. The Commission requests comment on the practicality of the five business day time period for filing the post-effective amendment with respect to both alternatives and, in particular with respect to Alternative II, whether the time period should be extended to ten or 15 business days from availability.

In the event that the registrant failed to file the post-effective amendment within the time required under either Alternative I or II and must suspend the sale seffort, Rule 465 would be available immediately upon filing the amendment. Thus, the post-effective amendment would be effective upon filing and offers and sales could resume immediately.[37]

The cover sheet of a post-effective amendment filed in reliance upon Rule 465 would have to state at the bottom of the page that the filing is made in reliance on the Rule so that it can be processed properly for automatic effectiveness.[38] Prospectus supplements used pursuant to proposed Rule 465 would be filed in accordance with the requirements of proposed new paragraph (b)(6) of Rule 424.[39] Note 1 of

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regarding acquisitions deemed probable at the time of effectiveness of the original registration statement must be disclosed.

[26] In order for a limited partnership to use proposed Rule 465, such change in investment criteria and objectives must be permitted under the limited partnership's governing instruments and the original registration statement must have prominently disclosed such possibility. Such change in investment criteria and objectives could not encompass any change in the specified industry and still rely on proposed Rule 465. A post-effective amendment would have to be filed pursuant to Item 512(a)(1)(ii) of Regulation S-K reflecting such change and declared effective whenever the investment criteria and objectives are changed materially, whether or not proposed Rule 465 is relied upon. Offers and sales would have to cease until the post-effective amendment was filed, and sales could not resume until it was declared effective.

[27] Proposed Rule 465 is not intended to alter a registrant's obligation otherwise to supplement the prospectus to reflect material events that occur after effectiveness and during an acquisition. *See* sections 12(2) and 17(a) of the Securities Act [15 U.S.C. 77*l*(2) and 77g(a)]; section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C. 78j(b)]; Rule 10b-5 [17 CFR 240.10b-5]. *Cf. Basic Inc. v. Levinson*, 108 S. Ct. 978 (1988) (Intentional failure to disclose material information in the face of a duty to disclose such information violates section 10(b) and Rule 10b-5).

[28] The term "probable" should be interpreted as it is in Article 11 of Regulation S-X and section 506.02.c.ii of the Financial Reporting Codification [17 CFR 211, Subpart A].

[29] Offerings that would use Rule 465, if adopted, would continue to be subject to the requirements of Rule 415 and would include the undertakings required by Item 512(a) of Regulation S-K [17 CFR 229.512(a)]. Thus, eligible registrants could satisfy the requirement of filing a post-effective amendment regarding the acquisition as required by Item 512(a)(1)(ii) by complying with Rule 465.

[30] Rule 3-05 and Article 11 of Regulation S-X require provision of historical financial statements of the business whose acquisition is probable and pro forma financial information with respect to the acquisition. In limited circumstances, pro forma financial information may be required even though historical financial statements are not required. In this Release, Rule 3-05 and Article 11 statements and information are referred to respectively as "required financial statements and financial information."

[31] The term "available" should be interpreted as it is in Rules 3-01 and 3-12 of Regulation S-X [17 CFR 210.3-01 and 210.3-12].

[32] Proposed Rule 465 (c) and (d) (Alternative I).

[33] Once historical financial statements are available, all other required acquisition information (*i.e.*, pro forma financial information which is derived from the historical financial statements, and complete textual information) should be available shortly, even if not available previously

[34] Whether a particular agreement constitued a binding agreement would depend upon the specific facts. *See* H. Temkin, *When Does the "Fat Lady" Sing? An Analysis of "Agreements in Principle" in Corporate Acquisitions*, 55 Fordham L. Rev. 125 (1986).

[35] Once the post-effective amendment was filed and the sales effort resumed, the prospectus used would, of course, need to contain all the required acquisition information.

[36] Proposed Rule 465 (c) and (d) (Alternative II).

[37] Proposed Rule 465(d) (Alternatives I and II).

[38] Proposed Rule 465(e) (Alternatives I and II). If the notation were not made, the post-effective amendment would not become effective automatically.

[39] The facts or events requiring the prospectus supplement to be filed under proposed paragraph (b)(6) of rule 424 would constitute substantive change information normally required to be filed under paragraph (b)(3) of Rule 424 [17 CFR Part

Continued

Rule 465 would direct registrants' attention to this requirement.

Finally, Notes 2 and 3 to the Rule would describe the procedure for filing confidential treatment requests and the number of copies required for filing the post-effective amendment. Technical, conforming changes also are proposed to be added to Rule 406, the confidential treatment rule.[40]

B. Availability of Rule

1. Availability Based on Business Structure

Proposed Rule 465 responds to a need that has been articulated by representatives of those limited partnerships engaged in various industries in which continuous acquisitions take place during the distribution period. The Rule as proposed would be available only for offerings of interests in limited partnerships.[41] The Commission requests comment as to whether the same considerations necessitate relief for other forms of business organizations. In particular, the Commission requests comment on whether proposed Rule 465 should be available for all "direct participation programs," as that term is defined in paragraph (b)(1) of Rule 3a12–9[42] under the Securities Exchange Act of 1934,[43] regardless of legal form, engaged in the specified industries.

2. Restriction to Specified Industries

As proposed, Rule 465 would be available only to limited partnerships investing solely in one of the following: hotels, nursing homes, cable television systems, radio or television broadcast systems, oil and gas programs, self-service storage facilities, power generating facilities, or equipment to be leased.[44] Registrants engaging in these specified industries have offered limited partnership programs for an extended period of time and the Commission has considerable administrative experience with them. The Commission requests comment, however, as to the appropriateness of the industries for which the Rule would be available and as to the advisability of extending the proposed procedures to limited partnership offerings in other industries. As noted above, comment particularly is solicited on including real estate limited partnerships and eliminating the procedures provided by Industry Guide 5 for real estate partnerships.

The Rule, as proposed, would not be available to limited partnerships operating in two or more industries. Permitting acquisitions to be made in more than one industry could lead to use of the proposed Rule by registrants engaged in blank check offerings. However, comment is requested on whether a means to overcome this concern could be developed, such as requiring registrants to specify the percentage of proceeds to be apportioned to acquisitions in the various specified industries.

3. Exclusion of "Blank Check" Offerings

Sales halts similar to those that occur in connection with blind pool partnership acquisitions, also may occur in so-called "blank check" offerings. However, unlike blind pool partnership offerings eligible to use the proposed Rule, blank checks do not describe the industries in which funds will be invested and do not provide specific disclosure concerning investment criteria and objectives or the nature of the acquisitions that are to be pursued. This lack of specific information as to the nature of the intended acquisitions is a substantive difference from the disclosure regarding intended acquisitions that would be made by qualifying limited partnerships under the proposed Rule.[45] For those limited partnerships that have identified legitimate concerns about procedural impediments to the capital raising process, the proposed Rule would present a reasonable resolution to those concerns without impairing the ability of offerees to make investment decisions. In contrast, opening such a procedure to blank check offerings would impair the ability of offerees to make such decisions, given the lack of disclosure to potential investors. Furthermore, availability of Rule 465 for blank check offerings would remove prior staff review in an area that has been subject to abuses. Accordingly, the Commission has determined that the proposed Rule will not be available to blank check offerings.

C. Section 11 Liability

Section 11 of the Securities Act imposes liability on the issuer, directors, signers, experts and other designated persons for material misstatements in, or omissions from, a registration statement at the time of effectiveness. Section 11 extends to post-effective amendments filed in accordance with the undertakings required by Rule 415. Such amendments constitute a new registration statement for purposes of the statute of limitations of section 13.[46]

Under both alternatives, those who purchase after the transaction becomes probable, at which point the prospectus must be supplemented, but prior to the filing of an automatically effective amendment, may not have rights under section 11 with respect to information concerning the acquisition in question. The seller will continue nonetheless to be liable to the purchaser under section 12(2) of the Securities Act[47] for misleading information contained in, or omissions from, the supplemented prospectus.

With respect to both alternatives, the Commission requests comment on whether requiring financial statements in a prospectus supplement without prior or simultaneous inclusion in a registration statement raises concerns regarding: (1) The lack of a statutory requirement for the filing of an accountant's consent to use of its opinion in connection with a prospectus supplement; (2) the ability of the accountant to determine, in the absence of a consent requirement, the use of required financial statements; or (3) liability under Section 11 for sales made pursuant to the prospectus supplement but prior to an effective post-effective amendment.

In this connection, the Commission solicits comment on whether the approach used in Rule 430A(b)[48] should be applied to proposed Rule 465. In Rule 430A(b), the information contained in the form of prospectus that is filed not later than five business days after the effective date of the registration statement is deemed to be part of the registration statement as of the time it was declared effective.[49] If a similar

230.424(b)(3)]. The Commission, however, proposes to have a separate paragraph for ready identification of Rule 465 filings. The proposed "five business days from use" time period for filing the prospectus supplement under paragraph (b)(6) is the same as that currently required by Rule 424(b)(3).

[40] When a registration statement is to become effective automatically, confidential treatment requests must be processed before the filing is made. The treatment proposed for acquisition-related post-effective amendments filed pursuant to Rule 465 is consistent with that used for other automatically effective registration statements enumerated in Rule 406.

[41] Proposed Rule 465(a) (Alternatives I and II).

[42] 17 CFR 240.3a12–9.

[43] 15 U.S.C. 78a, *et seq.*

[44] Proposed Rule 465(a)(1) (Alternatives I and II).

[45] Proposed Rule 465(a)(2) (Alternatives I and II). *See, e.g.*, Item 10 of Industry Guide 5, "Investment Objectives and Policies." Disclosure comparable to that currently being provided in this area by real estate blind pool partnerships would be needed in order to provide sufficient specificity for use of the proposed Rule.

[46] 15 U.S.C. 77m . *See* Item 512(a)(2) of Regulation S–K [17 CFR 229.512(a)(2)].

[47] 15 U.S.C. 77*l*(2).

[48] 17 CFR 230.430A(b).

[49] *See also* Item 512(j)(1) of Regulation S–K [17 CFR 229.512(j)(1)].

approach were used for proposed Rule 465, the prospectus supplement filed pursuant to proposed Rule 465 would be deemed to be a part of the original registration statement (or most recent previous post-effective amendment) as of the time the earlier document became effective. A second alternative would be for the required acquisition information contained in the post-effective amendment, as opposed to the prospectus supplement, to be deemed to relate back to the date of first use of the prospectus supplement or the effective date of the original registration statement (or most recent previous post-effective amendment). In this regard, the Commission also requests comment on whether the filing of the post-effective amendment should be deemed to constitute agreement by registrants, accountants and other parties subject to section 11 liability to the use of the required acquisition information in the prospectus supplement.

Finally, a third alternative would be to use automatically effective post-effective amendments rather than prospectus supplements to disclose the required information relating to the acquisition.

Unlike Rule 430A, however, there could be significant time periods between the effective date of the registration statement or most recent previous post-effective amendment and use of the prospectus supplement with the specified information relating to the acquisition. Moreover, unlike the information required in the Rule 430A prospectus, the prospectus supplement under both alternatives would have to include required financial statements. Accordingly, if there were to be a relation back to an earlier date, the accountant would have to agree that its consent be deemed part of the prior document. The Commission solicits comment on whether these potentially significant time periods and the requirement for having the accountant agree that its consent be deemed part of the prior document would pose difficulties for either issuers or accountants.

D. Relationship between Prospectus Disclosure and Form 8–K Disclosure of Acquisitions

1. Current System

A current report responding to Item 2 of Form 8–K with respect to a business acquired is not required until the acquisition has been consummated.[50] Pursuant to paragraph (a)(4) of Item 7 of Form 8–K, if it is impracticable to provide the required financial statements of the acquired business or property and financial information at the time the report on Form 8–K is filed, the registrant may file such of the required financial statements financial information as are available and file the remainder as soon as practicable, but no later than 60 days after the date the report on Form 8–K must be filed.

During the pendency of any such 60-day extension, Securities Act offerings may not be made except as provided in Instruction 2 of Item 7(a) of Form 8–K.[51] This general prohibition, however, was not intended to change the procedure established in Undertaking D of Item 20 of Industry Guide 5. Thus, when a real estate limited partnership consummates an acquisition during the offering period, sales activities may continue notwithstanding the pendency of the 60-day extension of time, as long as the quarterly post-effective amendments containing the required financial statements and financial information are filed when required.[52]

2. Proposed System

Under proposed Rule 465, the required acquisition information concerning a business acquired during the distribution period generally would be required to be filed in a post-effective amendment before a current report on Form 8–K is due. This is because the proposed requirements for filing the required acquisition information are dependent upon events relating to the particular acquisition that occur prior to consummation, which is the triggering event for filing a report on Form 8–K.[53] In the usual case, the Form 8–K filed during the distribution would need to reflect only the fact that the acquisition has been consummated; the required financial statements and financial information already would have been provided in the post-effective amendment and need not be included in the Form 8–K.

Of course, any changes in the terms of the acquisition that could have a material effect would have to be included in a prospectus supplement whether or not this information has been disclosed in a Form 8–K filed to reflect consummation. In the unlikely event that an acquisition previously disclosed as probable was not consummated, a post-effective amendment would be required to report such fundamental change.[54] Such an amendment would not be filed pursuant to proposed Rule 465, and thus would not become effective automatically. Pending effectiveness, the sales effort would have to be suspended.

E. Determining When an Acquisition Is Significant

Questions have been raised as to how to determine whether an acquisition or series of acquisitions by a blind pool partnership requires the filing of a post-effective amendment. Before the minimum net offering proceeds are raised, the determination of whether an acquisition, or acquisitions in the aggregate, is significant should be made in comparison to such minimum net proceeds. After sales of the interests have surpassed the minimum, the comparison should be made to the total assets of the registrant, including the net amount of proceeds raised, as of the date the filing is required to be made.[55]

[50] Pursuant to General Instruction B of Form 8–K, required reports are to be filed within 15 days after the occurrence of the earliest such event reported. *See* n.6 *supra*. Disclosure may be made prior to consummation of the acquisition pursuant to Item 5 of Form 8–K.

[51] Under Item 7(a), the following offerings or sales of securities are not affected by this restriction:

(a) Offerings or sales of securities upon the conversion of outstanding convertible securities or upon the exercise of outstanding warrants or rights;

(b) Dividened or interest reinvestment plans;

(c) Transactions involving secondary offerings; and

(d) Sales of securities pursuant to Rule 144 [17 CFR 230.144].

With respect to offerings registered on Form S–3 [17 CFR 239.13], filing a report on Form 8–K omitting required financial statements and financial information of the acquired business does not satisfy the Item 512(a)(1)(ii) undertaking requiring information to be provided regarding a fundamental change. Thus, except as provided in Instruction 2 of Item 7(a) of Form 8–K, sales of securities registered on Form S–3 may not continue to be made pursuant to the effective registration statement once a significant acquisition is probable unless the required financial statements and financial information are contained in an effective post-effective amendment or in a Form 8–K (or a Form 8 [17 CFR 249.460] amendment to the Form 8–K).

[52] Undertaking D of Industry Guide 5 does not relieve registrants from filing current reports on Form 8–K within 15 days of the consummation of a significant acquisition. Furthermore, if the required financial statements and financial information are due (pursuant to paragraph (a)(4) of Item 7 of Form 8–K) before the post-effective amendment is due, the Form 8–K must contain this information. If any of this information was omitted from the Form 8–K as initially filed pursuant to the 60-day extension of time provided, it may be filed under cover of Form 8. If the post-effective amendment is filed before the report on Form 8–K is due or before the time by which the financial statements required pursuant to Form 8–K must be filed, no additional report of the information need be made on Form 8–K. (*See* General Instruction B.3 of Form 8–K).

[53] The proposed Rule would not require the prospectus to be supplemented to reflect consummation of any acquisition for which a post-effective amendment previously had become effective pursuant to Rule 465. Whether such a supplement is required is determined according to general materiality principles.

[54] Item 512(a)(1)(ii) of Regulation S–K.

[55] *See* Staff Accounting Bulletin No. 71A, Question No. 4 and Interpretive Response (December 14, 1987) [52 FR 48193].

Thus, as the offering is sold beyond the minimum, the size of an acquisition that would necessitate an amendment increases.[56]

F. When Financial Statements and Financial Information Requirements Are Inapplicable

Concerns have been raised regarding the procedure to be followed if no financial statements are required pursuant to Rule 3–05 of Regulation S–X with respect to the transaction and no pro forma financial information is required pursuant to Article 11 of Regulation S–X. This circumstance can arise either because assets, rather than a business, are being acquired [57] or because there is no operational history of the acquired business. When a material amount of the offering proceeds is used to make an acquisition that does not require the filing of required financial statements or financial information, material information concerning the acquisition generally is required to be provided in a prospectus supplement at the time the acquisition becomes probable. Use of Rule 465 would not be necessary in such circumstances. If the acquisition of assets or property constitutes a fundamental change, however, a qualifying registrant could rely on Rule 465 procedures, if adopted.

G. Provision of Information to Existing Security Holders

1. Industry Guide 5 Requirements

Pursuant to Item 20 of Industry Guide 5, a registrant that did not provide disclosure concerning investment of a material portion of the maximum net proceeds of the offering in the registration statement at the time it became effective must provide the required information regarding the acquisition filed in post-effective amendments during the distribution period simultaneously to existing limited partners.[58] After the distribution has ended, the information required to be filed in a current report on Form 8–K for each material commitment [59] of the net proceeds must be provided to existing limited partners at least once each quarter.[60] Item 20 Industry Guide 5 also requires existing limited partners to be provided with the financial statements required by Form 10–K [61] for the first fiscal year of operations and a detailed statement of any transactions with, or all fees paid to the General Partner.

2. State Requirements

The North American Securities Administrators Association's ("NASAA") Statement of Policy regarding Real Estate Programs provides that at least quarterly a "Special Report" of real property acquisitions that took place within the prior quarter be sent to all participants until all the proceeds are invested or returned.[62] Annual and quarterly reports concerning the operations of the program also are required to be distributed to holders of real estate limited partnership interests.[63]

NASAA's Statement of Policy Regarding Equipment Programs requires quarterly reports for acquisitions by non-specified equipment programs.[64] In addition, annual and quarterly reports to holders of limited partnership interests concerning the operations of the equipment program are required.[65] There also are quarterly and annual reporting obligations for commodity pool and cattle feeding programs.[66]

3. Possible Requirements for Limited Partnerships Using Proposed Rule 465

The Commission is not proposing to require registrants to undertake to provide existing limited partners with information comparable to that provided to existing real estate limited partners. Industry Guide 5 undertakings provide for quarterly distribution of, among other things, required financial statements and financial information—information that is currently not distributed through prospectus supplements. Proposed Rule 465, on the other hand, provides for more frequent distribution of such information through prospectus supplements.[67]

The Commission solicits specific comment on whether the proposed Rule should require registrants to undertake to distribute post-effective amendments to existing limited partners and to distribute to limited partners the financial statements required by Form 10–K for the first full fiscal year of operations of the partnership. In addition, registrants could be required to send to each limited partner, at least on an annual basis, a detailed statement of any transactions with the General Partner or its affiliates, and of fees, commissions, compensation and other benefits paid or accrued to the General Partner for the fiscal year completed. These undertakings are similar to those required by Industry Guide 5 for real estate limited partnerships.

In the alternative, the Commission solicits comment on whether registrants should be required to undertake to provide existing limited partners on an annual basis (not only for the first fiscal year) with the financial statements required by Form 10–K.[68]

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[56] After the distribution, for purposes of disclosure on Form 8–K, financial statements would be required with respect to consummated acquisitions involving the use of more than 10% of the total assets of the registrant and its consolidated subsidiaries. *See also* Industry Guide 5, Undertaking D of Item 20.

[57] *See* Rule 11–01(d) of Regulation S–X [17 CFR 210.11–01(d)].

[58] This requirement is in accord with the recommendation of the Commission's Real Estate Advisory Committee that:

> Investors in such offerings should be provided with annual reports, filed with the Commission, which disclose in detail the investments of the program and clearly demonstrate their conformity with the specific investment criteria outlined in the prospectus.

Report of the Real Estate Advisory Committee to the Securities and Exchange Commission, October 12, 1972.

[59] Because "commitment" is defined as the signing of a binding purchase agreement, Industry Guide 5 requires that, after the distribution has ended, the financial statements of an acquired property must be filed in a report on Form 8–K earlier (*i.e.*, upon such signing) than when the same financial statements are required during the distribution (*i.e.*, upon consummation of the acquisition).

[60] *See also* Forms 1–G [17 CFR 239.101] and 3–G [17 CFR 239.101] under Regulation B [17 CFR 230.300–346], which require provision of information to investors in exempt offerings of fractional undivided interests in oil and gas rights. Form 1–G, which requires a report of sales of such interests, is to be delivered to the purchaser of such interests at the time of the offer and no sale can occur until 48 hours after delivery of such report. Form 3–G, which requires a report of the results of such offerings, is to be sent to each purchaser at the time the report is filed with the Commission.

[61] 17 CFR 249.310.

[62] NASAA Reports (CCH) ¶ 3607 at VII.J.

[63] *Id.* at VII.C.

[64] NASAA Statement of Policy Regarding Equipment Programs (CCH) ¶ 1606 at VI.C.1.

[65] *Id.* at VI.C.

[66] *See* NASAA Statement of Policy Regarding Commodity Pool Programs ¶ 1205 at V.D.2. Sponsors of such programs must furnish participants with quarterly and annual reports containing a balance sheet and statements of income and changes in financial position, and a statement showing the total fees, compensation, brokerage commissions and expenses paid by the Program. *See also* NASAA Statement of Policy Regarding Cattle Feeding Programs ¶ 604 at I.D.1. Sponsors of these programs must provide, at least quarterly as well as annually, each public investor with a report stating the current value of his interest and the progress of the venture.

[67] In addition, Form SR [17 CFR 239.61] requires a first-time issuer to file with the Commission a report regarding sales of securities and use of proceeds from such sales.

[68] Unlike other registrants that are subject to the Commission's proxy rules [17 CFR 240.14a–1—240.14a–14] and are required to distribute annual reports to security holders when directors are to be elected (Rule 14a–3(b) [17 CFR 240.14a–3(b)]), limited partnerships rarely hold such elections. Thus, even if a limited partnership were subject to Section 12 of the Securities Act [15 U.S.C. 78*l*], and thus required to comply with the Commission's proxy rules, annual reports to security holders would not be distributed to existing limited partners in the absence of an election of directors.

III. Cost-Benefit Analysis

To evaluate fully the benefits and costs associated with proposed Rule 465 and the amendments to Rule 424, the Commission requests commentators to provide views and data as to the costs and benefits associated with the rules to provide for the automatic effectiveness of post-effective amendments for acquisitions by specified limited partnerships. In this regard, the Commission notes that the proposals should reduce the costs associated with acquisition-related halts in the sales efforts of sponsors of limited partnerships and may reduce costs to investors of delays in investment of partnership proceeds.

IV. Summary of Initial Regulatory Flexibility Analysis

An initial regulatory flexibility analysis in accordance with 5 U.S.C. 603 has been prepared regarding proposed Rule 465 and related proposed amendments to Rule 424. The analysis notes that the proposals will eliminate much of the delay, and the resulting impact on the sales effort, caused by the necessity to await staff review (or a determination of no-review status) of amendments filed to reflect acquisitions by limited partnerships.

The proposed amendments would not result in any significant increase in reporting or recordkeeping requirements.

The following significant alternatives were considered: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rules, or any part thereof, for small entities. These alternatives would not be consistent with the Commission's statutory mandate of investor protection. A further alternative could be to apply the same treatment accorded to real estate limited partnerships to small issuer limited partnerships. As proposed, the Rule would provide sufficient flexibility to limited partnership sponsors in connection with their marketing efforts while, at the same time, requiring earlier filing of the specified information regarding the acquisition than is currently required for real estate limited partnership offerings.

A copy of the analysis may be obtained by contacting Sarah A. Miller, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

V. Request For Comments

Any interested persons wishing to submit written comments on the alternative rule proposals, as well as other matters that might have an impact on the proposals, are requested to do so. In addition to the areas specifically addressed throughout this Release, the Commission solicits comment on whether the proposed modification of the timing requirements for filing information would have any adverse impact on the need of the investing public for information and whether Alternative I or Alternative II is preferable in this regard. The Commission also solicits comment on the practicability of both alternatives from the registrant's point of view, and on the amount of relief that would be granted by each alternative.

VI. Statutory Basis Of Rule Proposals

These rules are being proposed pursuant to sections 2, 6, 7, 8, 10 and 19 of the Securities Act of 1933.[69]

List of Subjects in 17 CFR Parts 229 and 230

Prospectus delivery requirements, Reporting and recordkeeping requirements, Registration requirements, Securities.

VII. Text of Rule Proposals

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

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S-K

1. The authority citation for Part 229 continues to read:

Authority: Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 901; secs. 205, 209, 48 Stat. 906, 908; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 301, 54 Stat. 857; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574; sec. 1, 79 Stat. 1051; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 28(c), 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 11, 18, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78*l*, 78m, 78n, 78*l*(d), 78w(a), unless otherwise noted. Section 229.801(e) also issued under sections 6, 15 U.S.C. 77f, 7, 15 U.S.C. 77g, 8, 15 U.S.C. 77h, and 10, 15 U.S.C. 77j.

2. By amending Items 11.B. and 20.D. of Industry Guide 5, 229.801(e), to replace the words "424(c) supplement" with "Rule 424(b) [§ 230.424(b) of this chapter] supplement."

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 is amended by adding the following citations: (citations before * * * indicate general rulemaking authority).

Authority: Sec. 19, 48 Stat. 85, as amended; 15 U.S.C. 77s * * * Section 230.406 also issued under sections 7, 15 U.S.C. 77g, and 10, 15 U.S.C. 77j. Section 230.424 also issued under sections 2, 15 U.S.C. 77b, and 10, 15 U.S.C. 77j. Section 230.465 also issued under sections 7, 15 U.S.C. 77g, 8(c), 15 U.S.C. 77h(c) and 10, 15 U.S.C. 77j.

* * * * *

2. By revising paragraph (a) of § 230.406 to read as follows:

§ 230.406 Confidential treatment of information filed with the Commission.

* * * * *

(a) Any person submitting any information in a document required to be filed under the Act may make written objection to its public disclosure by following the procedure in paragraph (b) of this section, which shall be the exclusive means of requesting confidential treatment of information included in any document (hereinafter referred to as the "material filed") required to be filed under the Act, *except* that if the material filed is a registration statement on Form S-8 (§ 239.16b of this chapter) or on Form S-3, F-2, F-3 (§ 239.13, 32 or 33 of this chapter) relating to a dividend or interest reinvestment plan, or on Form S-4 (§ 239.25 of this chapter) complying with General Instruction G of that Form or on Form F-4 (§ 239.34 of this chapter) complying with General Instruction F of that Form, or if the material filed is a registration statement that does not contain a delaying amendment pursuant to Rule 473 (§ 230.473 of this chapter), or if the material filed is a post-effective amendment filed pursuant to Rule 465 (§ 230.465 of this chapter), the person shall comply with the procedure in paragraph (b) *prior* to the filing of a registration statement.

* * * * *

3. By adding new paragraph (b)(6) to § 230.424 to read as follows:

§ 230.424 Filing of prospectuses, number of copies.

* * * * *

[69] 15 U.S.C. 77b, 77f, 77g, 77h, 77j and 77s.

(b) * * *

(6) A form of prospectus that discloses information with respect to an acquisition of a business [as defined in § 210.11–01(d) of this chapter] that is significant [as defined in § 210.11–01(b) of this chapter] in accordance with Rule 465 under the Securities Act [§ 230.465 of this chapter] shall be filed with the Commission no later than the fifth business day after the date it is first used after effectiveness in connection with a public offering or sales, or transmitted by a means reasonably calculated to result in filing with the Commission by that date.

* * * * *

4. By adding new § 230.465 to read either one of the two following ways:

Alternative I

§ 230.465 Acquisitions by limited partnerships in specified industries.

(a) The provisions of this section are available only to limited partnership offerings as to which: (1) The proceeds are to be invested solely in one of the following: Hotels, nursing homes, oil and gas programs, self-service storage facilities, cable television systems, television or radio broadcast facilities, power generating facilities, or equipment to be leased; (2) the registration statement includes, at the time of effectiveness, specific disclosure concerning explicit investment criteria and objectives and the nature of acquisitions that are to be pursued; (3) the securities registered are not being used as consideration for the acquisition(s); and (4) the registration statement includes, at the time of effectiveness, the following statement in bold-face type at the bottom of the cover page:

THE REGISTRANT MAY RELY ON RULE 465 WITH RESPECT TO ACQUISITIONS SUBSEQUENT TO EFFECTIVENESS.

(b) A post-effective amendment with respect to an acquisition of a business [as defined in § 210.11–01(d) of this chapter] that is significant [as defined in § 210.11–01(b) of this chapter], filed during the public offering of interests in a limited partnership of the type specified in paragraph (a) of this section, shall satisfy the following requirements:

(1) The post-effective amendment shall contain financial statements and financial information required by Rule 3–05 and Article 11 of Regulation S–X [§§ 210.3–05 and 210.11–01 through 11–03 of this chapter] with respect to the acquisition, as well as appropriate textual disclosure regarding the acquisition, and may only include such other information as would not, in the absence of the acquisition, itself necessitate the filing of a post-effective amendment; and

(2) Either:

(i) The post-effective amendment shall be filed no later than five business days after the acquisition becomes probable; or

(ii) Offers and sales of limited partnership interests shall be suspended until the post-effective amendment is filed.

(c) Offers and sales of limited partnership interests may continue for five business days after an acquisition has become probable, provided that the requirements of paragraph (a) of this section are met and the prospectus used has been supplemented with all of the information concerning the acquisition specified by paragraph (b)(1) of this section.

(d) Offers and sales of limited partnership interests may resume after a suspension of the same, provided that the requirements of paragraphs (a), (b)(1), and (b)(2)(ii) of this section are met.

(e) In the event that an eligible registrant intends to rely on the provisions of this section, the registrant must place the following statement in bold-face type at the bottom of the cover page of the post-effective amendment described in paragraph (b)(1) of this section:

THIS AMENDMENT IS TO BECOME EFFECTIVE AUTOMATICALLY PURSUANT TO RULE 465.

Such post-effective amendment shall become effective upon filing with the Commission.

Note 1.—Any prospectus supplement required by this section shall be filed pursuant to Rule 424(b)(6) [§ 230.424(b)(6)].

Note 2.—Requests for confidential treatment made pursuant to Rule 406 [§ 230.406 of this chapter] in connection with any post-effective amendment must be processed by the Commission's staff prior to filing.

Note 3.—The number of copies of each post-effective amendment required by Rule 472 [§230.472 of this chapter] shall be filed with the Commission; *Provided, however,* that the number of additional copies referred to in Rule 472(a) [§ 230.472(a) of this chapter] may be reduced from eight to three, one of which shall be marked to clearly and precisely indicate changes.

Alternative II

§ 230.465 Acquisitions by limited partnerships in specified industries.

(a) The provisions of this section are available only to limited partnership offerings as to which: (1) The proceeds are to be invested solely in one of the following: hotels, nursing homes, oil and gas programs, self-service storage facilities, cable television systems, television or radio broadcast facilities, power generating facilities, or equipment to be leased; (2) the registration statement includes, at the time of effectiveness, specific disclosure concerning explicit investment criteria and objectives and the nature of acquisitions that are to be pursued; (3) the securities registered are not being used as consideration for the acquisition(s); and (4) the registration statement includes, at the time of effectiveness, the following statement in boldface type at the bottom of the cover page:

THE REGISTRANT MAY RELY ON RULE 465 WITH RESPECT TO ACQUISITIONS SUBSEQUENT TO EFFECTIVENESS.

(b) A post-effective amendment with respect to an acquisition of a business [as defined in § 210.11–01(d) of this chapter] that is significant [as defined in § 210.111–01(b) of this chapter], filed during the public offering of interests in a limited partnership of the type specified in paragraph (a) of this section, shall satisfy the following requirements:

(1) The post-effective amendment shall contain financial statements and financial information required by Rule 3–05 and Article 11 of Regulation S–X [§§ 210.3–05 and 210.11–01 through 11–03 of this chapter] with respect to the acquisition, as well as appropriate textual disclosure regarding the acquisition, and may only include such other information as would not, in the absence of the acquisition, itself necessitate the filing of a post-effective amendment; and

(2) Either:

(i) The post-effective amendment shall be filed no later than five business days after the financial statements required by Rule 3–05 of Regulation S–X become available or a binding purchase agreement is signed, whichever occurs first; or

(ii) Offers and sales of limited partnership interests shall be suspended until the post-effective amendment is filed.

(c) Offers and sales of limited partnership interests may continue once an acquisition has become probable, provided that the requirements of paragraph (a) of this section are met and the prospectus used has been supplemented with any available information regarding the acquisition specified by paragraph (b)(1) of this section; *Provided, however,* that offers and sales must be suspended if the post-effective amendment is not filed by the

fifth business day after the financial statements required by Rule 3–05 of Regulation S–X become available or a binding purchase agreement is signed, whichever occurs first.

(d) Offers and sales of limited partnership interests may resume after a suspension of the same, provided that the requirements of paragraphs (a), (b)(1), and (b)(2)(ii) of this section are met.

(e) In the event that an eligible registrant intends to rely on the provisions of this section, the registrant must place the following statement in bold face type at the bottom of the cover page of the post-effective amendment described in paragraph (b)(1) of this section:

THIS AMENDMENT IS TO BECOME EFFECTIVE AUTOMATICALLY PURSUANT TO RULE 465.

Such post-effective amendment shall become effective upon filing with the Commission.

Note 1.—Any prospectus supplement required by this section shall be filed pursuant to Rule 424(b)(6) [§ 230.424(b)(6)].

Note 2.—Requests for confidential treatment made pursuant to Rule 406 [§ 230.406 of this chapter] in connection with any post-effective amendment must be processed by the Commission's staff prior to filing.

Note 3.—The number of copies of each post-effective amendment required by Rule 472 [§ 230.472 of this chapter] shall be filed with the Commission; *Provided, however,* that the number of additional copies referred to in Rule 472(a) [§ 230.472(a) of this chapter] may be reduced from eight to three, one of which shall be marked to clearly and precisely indicate changes.

By the Commission.

Jonathan G. Katz,

Secretary.

July 8, 1988.

[FR Doc. 88–15898 Filed 7–13–88; 8:45 am]

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Thursday
July 14, 1988

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 842 and 843

Surface Coal Mining and Reclamation Operations; Evaluation of State Responses to Ten-Day Notices; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 842 and 843

Surface Coal Mining and Reclamation Operations; Evaluation of State Responses to Ten-Day Notices

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the U.S. Department of the Interior is amending certain portions of its rules on the federal inspection of coal mines and federal monitoring of state programs for regulating coal mine reclamation under the Surface Mining Control and Reclamation Act of 1977 (SMCRA, the Surface Mining Act, or the Act). This action is being taken in response to a petition for rulemaking, filed by several organizations representing members of the coal mining industry, and is designed to assure consistent treatment of states and surface coal mining and reclamation operations throughout the country.

The amended rules establish a uniform standard by which OSMRE will evaluate state responses to federal notices of possible violations of the Surface Mining Act. Under the amended rules, OSMRE will accept a state regulatory authority's response to such a notice, called a ten-day notice, as constituting appropriate action to cause a possible violation to be corrected or showing good cause for failure to act unless OSMRE makes a written determination that the state's response was arbitrary, capricious, or an abuse of discretion under the state program. The rules also provide a process by which a state regulatory authority can request informal review of OSMRE's written determination that the state response did not constitute appropriate action or show good cause for such failure.

EFFECTIVE DATE: August 15, 1988.

ADDRESSES: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: George M. Stone, Jr., Chief, Branch of Inspection and Enforcement, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202/343-4295 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Background

When Congress enacted the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*, it established a complex regulatory structure for protecting the environment from the surface effects of coal mining.

Although Congress could have enacted a statute mandating only federal regulation of coal mining, it did not. Instead, "the Surface Mining Act establishes a program of *cooperative federalism* that allows the States, within limits established by federal minimum standards, to enact and administer their own regulatory programs, structured to meet their own particular needs." *Hodel v. Virginia Surface Mining and Reclamation Association,* 452 U.S. 264, 289 (1981) (emphasis added). This final rule implements the cooperative federalism intended by Congress and clarifies OSMRE's role in overseeing the states' administration of their regulatory programs.

Because this final rule must be viewed and implemented in the context of the structure provided by Congress, it is important to keep in mind the statutory and regulatory framework on which the rule is based.

A. Statutory Background

1. Role of the States and the Secretary

The Surface Mining Act authorizes the federal government, acting through the Interior Department and OSMRE, to delegate primary responsibility for enforcing the Act on non-federal and non-Indian lands to the coal-producing states. In Section 101(f), Congress found that "because of the diversity in terrain, climate, biologic, chemical, and other physical conditions in areas subject to mining operations, the primary governmental responsibility for developing, authorizing, issuing, and enforcing regulations for surface mining and reclamation operations should rest with the States; * * *." 30 U.S.C. 1201(f).

While establishing nationwide standards for reclamation, the Act gives the states an opportunity to develop and propose their own programs for regulating the surface effects of coal mining. Once a state program is approved by the Secretary of the Interior (the Secretary), the state assumes primary responsibility for enforcing the Act on non-federal and non-Indian lands within its borders.

Section 503 of the Act provides the standards on which the Secretary is to base his approval. As described by the U.S. Court of Appeals, "[t]he Secretary may only approve a program if he determines that the state 'has the capability of carrying out the provisions of this Act and meeting its purposes.' Act Section 503(a). The proposed state program must include 'a State law which provides for the effective implementation, maintenance, and enforcement of a permit system,' Act section 503(a)(4), and 'rules and regulations consistent with regulations issued by the Secretary pursuant to this Act' Act section 503(a)(7)." *In re: Permanent Surface Mining Regulation Litigation,* 653 F.2d 514, 520 (D.C. Cir., 1981), *cert. denied* Oct. 5, 1981.

Once the Secretary approves a state program, the state takes the lead role, issuing permits, approving or disapproving reclamation plans, setting bond amounts, and inspecting mines to determine compliance.

2. State Law Applied

In primacy states, a mine operator's compliance is measured against the approved state program, rather than directly against the Act. As the court explained in *In re: Permanent Surface Mining Regulation Litigation,* "it is with an approved state law and with state regulations consistent with the Secretary's that surface mine operators must comply." 653 F.2d at 519.

This interpretation of the law is supported by the legislative history of the Act. In discussing the promulgation of federal regulatory programs, a Senate committee stated that "[s]urface mine operators need to know which regulations—Federal or State—they must follow at any given point in time." Senate Report No. 128, 95th Congress, 1st Sess., 72 (1977). The clear implication is that in primacy states, operators are responsible for complying with state regulations.

In the same report, the Senate committee also stated that "[i]n order to prevent federal-state overlap, the federal inspector is only to use his authority under section 421(a)(3) [subsequently enacted as Section 521(a)(3)] where the Secretary is the regulatory authority. However in other circumstances the Secretary must insure, in accordance with the provisions of section 421(a)(1), that the State is notified of the compliance problem so that it may act *under the terms of the approved state program." Id.* at 92 (emphasis added).

The sections of the Act providing for citizen suits also reflect Congressional intent that operators in primacy states should only be liable for compliance with the state program. Section 520(a)(1)

authorizes citizen suits against operators for violations of the applicable regulations, but not of the Act. Such suits may be brought "against any other person who is alleged to be in violation of any rule, regulation, order or permit issued pursuant to this title * * *." Section 520(a)(1) of SMCRA.

The U.S. Court of Appeals for the 3rd Circuit reached the same conclusion in *Haydo v. Amerikohl Mining*, 830 F.2d 494 (3rd Cir., 1987). In that case, private landowners sued a mining company in federal court for damage to a water well, claiming the damage was caused by the company's exploration drilling. The court concluded there was no federal jurisdiction over the case, declaring:

"Section 512 [of SMCRA] makes the requirements of section 515 [of SMCRA] applicable to certain coal exploration operations. By their very terms these sections of the statute merely prescribe minimum performance standards which must be required of applicants for permits under a state or federal regulatory program before the program may be approved by the Secretary. They do not themselves create any rights and duties as between operators and other persons. The SMCRA itself is not violated by an operator's violation of a permit condition, even though the SMCRA requires that the condition be imposed." *Haydo*, 830 F.2d at 498 (footnote omitted).

3. The Federal Role

Once a state has been granted primacy, the federal role becomes one of oversight. As described by the U.S. Court of Appeals, "[t]he Secretary is initially to decide whether the proposed state program is capable of carrying out the provisions of the Act, but is not directly involved in local decisionmaking after the program has been approved." *In re: Permanent Surface Mining Regulation Litigation*, 653 F.2d 514, 518 (D.C. Cir., 1981). The court further stated that "[o]nce a state program has been approved, the state regulatory agency plays the major role, with its greater manpower and familiarity with local conditions. It exercises front-line supervision, and the Secretary will not intervene unless its discretion is abused." *Id.* at 523.

Program Oversight. The Act sets forth an oversight role for the Secretary as follows:

Section 517(a) of SMCRA authorizes oversight inspections by the federal government as necessary to evaluate the administration of approved State programs. Section 517(e) requires that when an inspector detects a violation of any requirement of any State or Federal program or of the Act, he informs the operator in writing, and also reports in writing any such violation to the regulatory authority. Given Congress' more specific enunciation in section 521(a) of SMCRA of the Secretary's enforcement role in primacy states, section 517(e), taken alone, does not require an OSMRE inspector to issue a federal notice of violation (NOV) against the operator in a primacy state. The relationship between sections 517(e) and 521 will be discussed further in a subsequent section of this preamble.

Mine-Specific Federal Inspection and Enforcement. Federal inspection and enforcement actions regarding possible violations are specified in section 521 of SMCRA. Under section 521(a)(1), if the Secretary has reason to believe that a person is in violation of the Act or of any permit condition required by the Act, he must notify the State regulatory authority in the primacy states. "If no such state authority exists or the state regulatory authority fails within ten days after notification to take *appropriate action to cause said violation to be corrected* or to show *good cause for such failure* and transmit notification of its action to the Secretary, the Secretary shall immediately order federal inspection * * *." Section 521(a)(1) (emphasis added).

Although the Secretary's obligation to notify the state arises with his belief that a violation of the Act or required permit condition exists, the Secretary's obligation to order a federal inspection only arises if the Secretary believes that the violation continues to exist after the state responds to the ten-day notice and the state has failed to take appropriate action to compel its correction, or the state did not show good cause for failing to take appropriate action.

Thus, three conditions are required before the Secretary must order a federal inspection under section 521(a)(1) in primacy states, absent an imminent danger of significant environmental harm or danger to the public health or safety: 1. The state fails to take appropriate action to cause correction of the violation following notification of a possible violation; 2. the state does not show good cause for failing to act; and 3. the Secretary believes that the violation continues to exist. Absent any one of those three, the Secretary has no obligation to order a federal inspection.

An exception to the 10-day notification requirement exists where the Secretary is provided proof that an imminent danger of significant environmental harm or danger to the public health or safety exists and the state has failed to take appropriate action. Act section 521(a)(1). In a case of imminent danger of significant environmental harm, or danger to the health or safety of the public, section 521(a)(2) provides the Secretary with authority to issue cessation orders.

As seen from the preceding paragraphs, two concepts become central to the Secretary's responsibilities: "Appropriate action," and "good cause" for the failure to take appropriate action. Neither the statute nor OSMRE's regulations define the terms "appropriate action" or "good cause" for failure to take appropriate action. Providing those definitions is a primary focus of this rulemaking.

In addition to the sections of the Act described above, an understanding of other related provisions is helpful in determining what may constitute appropriate action and good cause and in responding to the numerous comments received.

Section 521(a)(3) details the conditions under which OSMRE is expressly obligated to issue federal notices of violation. That duty arises during the enforcement of a federal program in states without an approved state program; during the enforcement of an interim program (before the state had an approved permanent program); and on federal lands.

The responsibility also arises under section 521(a)(3) of the Act where a federal inspection is carried out pursuant to section 504(b). Section 504(b) states that "in the event that a state has a State program for surface coal mining, and is not enforcing any part of such program, the Secretary may provide for the Federal enforcement, under the provisions of section 521, of that part of the State program not being enforced by such State."

Finally, section 521(a)(3) authorizes OSMRE to issue NOVs when an inspection is carried out during federal enforcement of a state program in accordance with section 521(b). Section 521(b) provides procedures for the Secretary when he has reason to believe that violations of all or any part of the state program result from the state not effectively enforcing the state program. Under such circumstances, the Secretary is to notify the state, hold a hearing, provide public notice of the findings required by Section 521(b), and, until such time as the state shows its capability and intent to enforce the state program, the Secretary is required to enforce "any permit condition required under this Act." The section includes the proviso, however, that where a permittee has met his obligations under a state permit that was not willfully

secured through fraud or collusion, he will be given a reasonable amount of time to "conform ongoing surface mining and reclamation to the requirements of this Act before suspending or revoking the State permit."

Thus, where OSMRE takes over an inadequately enforced state program, Congress clearly envisioned a time lag in the suspension or revocation of permits in situations where an operator was in violation because of a permit not requiring full compliance with the state program. Rather than penalizing the operator when the state is at fault, OSMRE must allow a reasonable time for a permittee to comply with additional permit conditions required by OSMRE when the permittee has been complying with the original permit conditions. Although the proviso expressly addresses suspensions and revocations, it naturally follows that during the reasonable period for compliance, OSMRE would refrain from issuance of NOVs and cessation orders related to the problem being corrected. The same principle is also established in Section 504(d) of SMCRA.

B. Regulatory Background

The statutory roles discussed above are implemented through regulations promulgated at 30 CFR Parts 842 and 843.

Section 842.11(a)(1) implements section 517(a) of the Act, authorizing oversight inspections. Section 842.11(a)(3) implements the inspection requirements of sections 521(b) and 504(b) of the Act, where the federal government concludes the state is not adequately enforcing its program.

Section 842.11(b) implements section 521(a)(1) of the Act, and is the focus of this final rulemaking. Under that regulation, the authorized representative of the Secretary is to notify the state regulatory authority of a possible violation and to conduct a federal inspection immediately if the state fails within ten days to "take appropriate action to cause the violation to be corrected or to show good cause for such failure and to inform the authorized representative of its response." 30 CFR 842.11(b)(1)(ii)(B).

If there is adequate proof that an imminent danger to the public health and safety, or danger of a significant, imminent environmental harm to land, air or water resources exists, and that the state regulatory authority has failed to take appropriate action, the Secretary will order a federal inspection. 30 CFR 842.11(b)(1)(ii)(C).

Section 843.12(a)(1) implements section 521(a)(3) of the Act, including the issuance of federal NOVs in certain circumstances.

Section 843.12(a)(2) implements section 517(e) of the Act, by requiring the authorized representative to notify the state and the permittee of violations of the Act, the state program, or any condition of a permit. The section also provides the authority for OSMRE to issue federal NOVs in primacy states, but only where the state fails to take appropriate action to cause a violation to be corrected, or to show good cause for such failure.

The agency has concluded previously that it has authority to issue federal NOVs in primacy states under § 843.12(a)(2), based on the Secretary's enforcement discretion. The Secretary chose to implement that power, not by requiring an immediate federal NOV for every possible violation detected, but instead by allowing the state regulatory authority to take appropriate action or to show good cause for its failure to do so. By so doing, the Secretary is respecting the goal of state primacy, while preserving the authority to protect the environment if a state should fail to implement its program. Thus, while the regulation uses the word "shall" to denote the Secretary's authority, that authority is exercised following a Federal inspection after the Secretary has determined that a state has failed to take appropriate action or to show good cause. The Secretary's authority to issue NOVs under § 843.12(a)(2) is not the subject of this rulemaking.

Summary Overview of Regulatory Structure. Combining these separate statutory and regulatory references produces the following structure: Once the Secretary approves a state regulatory program, the state has the primary enforcement role, and OSMRE oversees the implementation of the program. If a state is not enforcing its program adequately, the law provides a mechanism by which OSMRE can review and, if needed, enforce the state program. In the meantime, mine operators must comply with the requirements of the state program. If OSMRE has reason to believe a violation of the state program, *or* of the Act exists, it must notify the state except in the case of imminent danger to the public or the environment, where OSMRE can immediately inspect and issue a cessation order when a state has failed to take appropriate action. Once notified of a possible violation, the state then has ten days in which to take appropriate action to cause the violation to be corrected, or to show good cause for its failure to take such action.

C. Background of This Rule

On May 30, 1986, the Mining and Reclamation Council of America (now part of the National Coal Association) and the Regulatory Assistance Program, an organization of ten state coal associations, submitted a petition for rulemaking to OSMRE. The petition sought amendments and modifications to regulations found at 30 CFR Parts 701, 842, and 843. In particular, the petitioners asked that OSMRE repeal its regulations authorizing the issuance of federal notices of violations in primacy states—those with approved regulatory programs. The Director denied that portion of the petition on June 8, 1987 (52 FR 21598). The denial of that portion of the rulemaking petition is currently being litigated in the case of *N.C.A. v. Gentile*, No. 87-2076 (D.D.C.).

The petitioners also requested that OSMRE adopt a uniform standard for reviewing state responses to federal ten-day notices. In particular, the petitioners asked that OSMRE adopt an "arbitrary, capricious, or abuse of discretion" standard of review in determining whether a state had taken appropriate action or shown good cause for failing to do so.

The petitioners argued that the lack of a uniform standard for evaluating appropriate action and good cause led to considerable disparity in the treatment of coal operators and state regulatory authorities, and failed to reflect the goals and principles of the congressionally mandated primacy.

On June 8, 1987 (52 FR 21598), the Director granted the petitioners request for an "arbitrary, capricious, or abuse of discretion" standard of review, and, in accordance with federal regulations, began rulemaking proceedings to implement that standard.

On September 9, 1987, OSMRE proposed a rule to implement the decision (52 FR 34050), and requested comments on the proposed rule. On October 27, 1987, in response to a request from the petitioners, OSMRE extended the public comment period on the proposed rule. The extended comment period closed November 20, 1987.

II. Discussion of Final Rule and Response to Comments

A. General

The final rule establishes a uniform standard by which OSMRE will evaluate state responses to federal ten-day notices. It defines "appropriate action" on the part of the state to cause a violation to be corrected, lists five situations that will constitute good

cause for a state failing to take appropriate action, and provides an opportunity for informal review before a federal inspection will occur following a ten-day notice to a state.

OSMRE received 42 comments on the proposed rule, representing the views of 39 groups and individuals.

Of those, 34 expressed general support for the proposed rule, while, in some instances, requesting modification. Many expressed their belief that the rule as proposed more closely reflects congressional intent behind the concept of primacy than the regulations then in effect.

Eight commenters disagreed with the proposal, requesting that the rule not be adopted. Most directed their opposition at specific provisions in the proposed rulemaking, and those comments will be discussed in detail in the following sections. Several commenters expressed broader concerns.

Several individuals described their personal experiences and frustrations in dealing with specific state regulatory authorities. Those persons, while not addressing specific provisions in the rulemaking, expressed general concern over the willingness of states to enforce the law. They suggested that the states would be incapable or unwilling of adequate enforcement without the federal government playing a strong, active role on a day-to-day basis.

A coalition of commenters forwarded descriptions of specific instances in which OSMRE inspections, following ten-day notices, were instrumental in preventing environmental harm. Such examples, the commenters contend, show that ongoing violations of the Act that are not subject to enforcement action by state regulatory agencies, for whatever reason, will be left uncorrected if the rule is adopted as proposed.

Other commenters relayed their concerns over coal mine operators being "caught in the middle" in disagreements between state and federal authorities.

Those points of view reflect clearly the dichotomy of the surface mining law. The law was enacted, in part, because some states did not have reclamation requirements as strict as others, thus creating a competitive disadvantage to those states that had strict reclamation requirements. Yet, as discussed above, the law gives the states the lead, with the federal government playing an oversight role once a state program is approved. What that federal oversight should entail has been a continuing source of debate. This rulemaking is an attempt to reach a proper balance, recognizing the lead role of the primary states, while at the same time providing the federal presence that Congress intended, to assure the law, through the approved state programs, if effectively enforced.

OSMRE disagrees with the comments that argue the federal government must have primary enforcement responsibility in primacy states. As enacted, the law allows the Secretary to give the lead to the states. The U.S. Court of Appeals succinctly described the Secretary's role: "Once a state program has been approved, the state regulatory agency plays the major role, with its greater manpower and familiarity with local conditions. It exercises front-line supervision, and the Secretary will not intervene unless its discretion is abused." *In re: Permanent Surface Mining Regulations Litigation*, 653 F.2d at 523 (1981).

The law also provides mechanisms for resolving problems with state implementation of the program: Amendments to state programs (described in 30 CFR 732.17), federal enforcement of state programs, and withdrawal of federal approval for a state program (described in 30 CFR 733.12). With this final rule, OSMRE expects that use of 732 and 733 actions may increase, as the regulatory focus shifts from individual situations to a broader evaluation of a state's overall program. Such a shift in focus, and a willingness on the part of OSMRE to require program amendments and to process those amendments expeditiously, as well as ongoing program oversight, answers the concern that states will not effectively implement, enforce, or maintain their programs.

At the same time, the likelihood of operators being given conflicting orders from state and federal officials should decrease, without hampering federal oversight of state implementation of the regulatory programs.

In other general comments, a coalition of commenters opposed the rule as a whole because they say it would do more than codify a standard for OSMRE review of state responses to ten-day notices. Instead, they contend that the rule attempts to remove the mandatory obligation to issue NOVs that the Act imposes on both OSMRE and the states. In particular, the commenters argue that the agency has, without proper notice and explanation of the authority for such action, proposed to alter the mandatory enforcement requirements of sections 517 and 521 of the Act. As a result, they argue that the rule is in derogation of the Administrative Procedure Act.

OSMRE disagrees with the commenters' characterization of the proposed rule. The rule, as proposed and as adopted, does not remove any obligation to issue a notice of violation. Where the Secretary is the regulatory authority, the Secretary has a duty to issue an NOV for each violation detected. In primacy states, a state inspector continues to have an obligation to issue a notice of violation when the inspector detects a violation.

That obligation on the state inspector is included in the requirements of an approved state program, and is incorporated into this rule by defining appropriate action as "enforcement or other action authorized under the State program," in § 842.11(b)(1)(ii)(B)(*3*). Thus only actions authorized under state programs may be considered appropriate.

As stated above, it is important to view this rule in the context of the Surface Mining Act and the regulations that implement it. The rule addresses the issue of when a federal inspection is required in OSMRE's oversight capacity in primacy states. It is not an effort to weaken the enforcement scheme imposed by other sections of the Act or regulations. In enacting the Surface Mining Act, Congress clearly envisioned a regulatory structure in which states would bear the primary responsibility for enforcing the law, but with oversight by the federal government. That oversight must be based on respect for the role of the states.

States are expected to implement their programs fully, including all the applicable enforcement provisions. If they do not do so, the Act provides mechanisms by which OSMRE can address inadequacies in the state's implementation. Those mechanisms allow the inadequacies to be corrected, however, without placing the mine operator in the middle of conflicting orders from state and federal officials.

The purpose of the rule is as was stated in the preamble to the proposed rule (52 FR 34050). That purpose is to establish a uniform standard for OSMRE's evaluation of responses by state regulatory authorities to ten day notices, not to remove enforcement obligations.

Other general comments addressed language in the preamble to the proposed rule. That preamble had stated that the rule would not affect a decision to inspect based on § 842.11(b)(1)(ii)(C) when adequate proof is supplied that an imminent danger to the public health and safety or a significant imminent environmental harm exists. The preamble also stated that the rule was not intended to interfere with OSMRE's issuance of NOVs as required by court

orders in *Save Our Cumberland Mountains v. Clark*, No. 81–2134 (D.D.C. 1985) and *Save Our Cumberland Mountains v. Clark*, No. 81–2238 (D.D.C. 1985).

A group of commenters requested clarification on this point, asking that OSMRE clearly state whether the standard for review, if finalized, would apply to the two cases.

The standards of review adopted in this rule under sections 842.11(b)(1)(ii)(B)(*2*), (*3*), and (*4*) do not apply to OSMRE evaluation of state responses to ten day notices issued under the two aforementioned cases. Although OSMRE could have proposed to modify OSMRE's responsibilities under those orders, OSMRE elected not to do so. As stated in the preamble to the proposed rule, application of the final rule will be consistent with the court orders in the two cited cases.

With regard to the first case cited, this final regulation is not intended to modify the procedures of paragraph 3 of the court order—commonly called the "Parker Order,"—except that a state may request informal review from the OSMRE deputy director, in accordance with procedures established by this rule, of an OSMRE determination relating to a state response to a ten day notice. For the situations covered by the Parker Order, paragraph 3 establishes which state actions are considered appropriate following an OSMRE ten day notice.

The second case cited involves the 2-acre settlement agreement. Promulgation of this final rule will not modify implementation of that agreement in the manner agreed upon by the parties.

The same group of commenters asserted that the proposed rule—if applied to the two cases cited—would not only interfere with the issuance of NOVs, but would hamper the enforcement process.

OSMRE disagrees with this characterization of the rule, generally and as applied to the two cited cases. The previous rule already accepted appropriate action and good cause as reasons for not ordering a federal inspection. This rule clarifies the meaning of those terms and establishes a process for review. These changes will allow state and federal regulatory authorities to implement the law more effectively. As stated previously, OSMRE retains its right to inspect based on § 842.11(b)(1)(ii)(C), when adequate proof is supplied that an imminent danger to the public health and safety or a significant imminent environmental harm exists. In addition, OSMRE retains the authority to inspect under § 842.11 and issue federal NOVs under § 843.12. OSMRE also retains significant authority, through the procedures of 30 CFR 732.17 and 733.12 to require amendments of state programs and to substitute federal enforcement of the program if needed to protect the environment and enforce the law.

B. Part 842—Federal Inspections and Monitoring

1. Written Determination

Section 842.11(b)(1)(ii)(B)(*1*) of the final rule provides that OSMRE will make a written determination that a state has failed to take appropriate action to cause a violation to be corrected or has failed to show good cause for its failure to do so, before ordering an inspection that could lead to direct Federal enforcement against an operator in a primacy state. The proposal reflects a change from the previous rule because it requires that the determination be in writing.

The language of final § 842.11(b)(1)(ii)(B)(*1*) is the same as that of the proposed rule, but will one minor change to clarify the meaning. That change consists of one sentence that has been added to clarify that the failure of a state to respond to a ten day notice will not prohibit OSMRE from acting.

OSMRE was concerned that the language as proposed left the implication that only after receiving a response from the state regulatory authority could OSMRE then make a determination as to whether the standards for appropriate action or good cause for such failure were met. This left an ambiguity as to what OSMRE would do if a state did not respond. The added sentence is intended to make clear that OSMRE will not be prevented from acting merely because the state regulatory authority fails to respond within ten days. The failure to respond to a ten day notice will constitute a waiver of the state regulatory authority's right to request informal review under § 842.11(b)(1)(iii). If a state simply fails to respond to a ten day notice, it would not be reasonable to delay federal inspections for another five days to give the state time to request review.

2. Arbitrary or Capricious Standard of Review

Section 842.11(b)(1)(ii)(B)(*2*) defines appropriate action and good cause to include any action that is not arbitrary, capricious, or an abuse of discretion, as judged by the approved state program. After considering the comments, OSMRE is adopting the language of § 842.11(b)(1)(ii)(B)(*2*) as proposed, but with one editorial change. The proposed language had stated the definitions of appropriate action and good cause would apply for purposes of Part 842. The final rule has been revised to clarify that the definitions are applicable to the subchapter. The change was necessary because the same terms are used in 30 CFR Part 843, notably in § 843.12(a)(2) as the standard upon which to determine whether a federal reinspection is required. OSMRE intends that the terms be applied consistently, regardless of whether Part 842 or 843 is applied.

Under the final rule, the state program is the standard for judging the appropriateness of a state response because once such a program is approved, a state is expected to act in accordance with that program. It is therefore the approved state program, rather than the Act, that will be used to determine whether a state action, taken in response to a federal ten day notice, is appropriate or constitutes good cause. *See*, Sen. Rep. 128, 95th Cong., 1st Sess., 92 (1977), quoted earlier in this preamble.

In comments on § 842.11(b)(1)(ii)(B)(*2*), several commenters asked that OSMRE clarify the rule to ensure that state interpretations of non-federal standards are controlling.

Implementation of the goal of state primacy requires that OSMRE defer to a state's interpretation of its own regulations, as long as that deference occurs within the framework of careful oversight, as provided by the statute. OSMRE will recognize a state's interpretation of its own program as long as it is not inconsistent with the terms of the program approval or any prior state interpretation recognized by the Secretary and as long as the state interpretation is not arbitrary, capricious, or an abuse of discretion. Terms of the program approval are codified in the Code of Federal Regulations, and are explained in the **Federal Register** preamble accompanying the approval, as well as in other correspondence between OSMRE and the state.

If the state interpretation is inconsistent with SMCRA or the Federal regulations, the Secretary must notify the state that its program needs to be modified, under the program amendment provisions of 30 CFR 732.17, and may supersede the inconsistent provision under 30 CFR 730.12(a).

Another group of commenters voiced support for the proposed language, noting that it is in keeping with the Court of Appeals' decision in *In re: Permanent Surface Mining Regulation Litigation*, 653 F.2d 514, 523 (D.C. Cir. 1981), where the court concluded "[o]nce a state program has been approved, the

state agency plays the major role, with its greater manpower and familiarity with local conditions. It exercises front-line supervision and the Secretary will not intervene unless its discretion is abused." The commenters also mentioned a decision from the U.S. District Court for the Northern District of Alabama (*Drummond Coal v. OSM*, No. 85-Ar-1411-S (N.D. Ala., June 5, 1985)) as showing that an abuse of discretion standard is appropriate for evaluating responses to ten-day notices. The commenter then suggested that to guard against erosion of the deferential standard, OSMRE should emphasize in the preamble to the final rule that "arbitrary and capricious" and "abuse of discretion" mean that actions by a state regulatory authority are to be accorded the same deference by OSMRE as the Secretary's regulations are by federal courts.

OSMRE has considered the comment, but has decided that the suggested language is unnecessary for purposes of this rule. The rule states clearly that the standard of review will be "arbitrary, capricious, or abuse of discretion." Concerns about future application of those words will best be decided when specific fact situations have arisen and can be evaluated.

Other comments addressed language in the preamble to the proposed rule that explained that "an arbitrary or capricious response, or one that is an abuse of discretion under the state program, would be one in which the state regulatory authority has acted irrationally, or without adherence to correct procedures, or inconsistently with applicable law, or without proper evaluation of relevant criteria."

A group of commenters requested that the language in the preamble be deleted because it implied that state action which occasionally departs from the procedures approved in the state program will render the state response inappropriate. They argued that such a departure may constitute a proper exercise of discretion, particularly if it ultimately allows correction of a violation.

OSMRE disagrees with this comment. Approved programs should contain ample discretion for the state. If additional options are needed, an amendment to the state program would be the appropriate mechanism to resolve the issue, not deviation from the program on a case-by-case basis.

Other commenters also asked that state interpretations of state laws be given deference, but then suggested that where a state program is more stringent than the Act, OSMRE should only require compliance with the less stringent federal requirements.

OSMRE disagrees with this comment. In primacy states, the law to be applied is the entire state program, not merely parts of the state program. In addition, in its oversight role, OSMRE is charged with evaluating how well a state implements its state program—including all provisions of that program. Under section 517(e) of the Act, federal inspectors are required to notify the state regulatory authority of violations of "any State * * * program * * *." Therefore, while OSMRE does not have an immediate obligation to issue an NOV upon detecting a possible violation in a primacy state, it is obligated to notify the state of the possible violation of any part of the state program and to evaluate the appropriateness of the state response.

3. Appropriate Action

Section 842.11(b)(1)(ii)(B)(*3*) of the final rule defines "appropriate action" as being enforcement or other action authorized under the state program to cause the violation to be corrected. This definition expands appropriate action to include more than just enforcement actions, but only if the other action is 1) authorized under the state program, and 2) will cause the violation to be corrected.

In the 1982 **Federal Register** preamble to OSMRE's revised inspection and enforcement regulations, OSMRE declined to spell out in greater detail what appropriate action meant. The agency did conclude, however, that "[t]he crucial response of a State is to take whatever enforcement action is necessary to secure abatement of the violation." (47 FR 35627-35628, August 16, 1982.)

The 1982 decision not to define the term "appropriate action" did not reflect the experience that has since been gained by OSMRE in implementing the primacy concept. The first state program was not approved until 1980, with 15 others approved by the end of fiscal year 1981. The last of the 25 state program approvals occurred in 1983. The agency has now applied the 1982 rules for six years, and has found the absence of a well-established review standard has resulted in disparate treatment of states and coal mine operators nationwide.

Because of its experience with primacy over the past six years, OSMRE rejects the concept that appropriate action to cause a violation to be corrected can only include responses showing that at the time of the state response either the condition constituting the possible violation of the Act no longer exists or the state has issued an NOV or cessation order. Instead, OSMRE recognizes that situations vary and may, in some cases, either be so complex or otherwise allow other actions to resolve the situation.

For example, "other action" to cause the violation to be corrected could include the initiation of the process to require a revision or modification to the operator's permit under 30 CFR 774.11(b) where the original permit contained a defect. Other actions might also include the commencement of a proceeding to forfeit the performance bond if the bond amount is adequate to correct the violation and achieve reclamation, as allowed under 30 CFR 800.50. In both examples, the actions will be appropriate only if they are authorized under the state law in lieu of enforcement action and if they will cause the violation to be corrected.

A coalition of commenters argued that the proposal to broaden the definition of "appropriate action" to include actions in addition to enforcement actions abridges the duty of the state regulatory authority immediately to issue a notice of violation upon detecting a violation. They argued that the only "appropriate" response to cause a violation to be abated is an enforcement response, consistent with section 517(e) and 521(a)(1) of the Act.

Furthermore, the commenters claim that the state and OSMRE lack authority to waive the mandatory citation of a violation, and say that the rule, if adopted, would permit a "free bite" for operators who will violate the conditions of a permit or the state program, knowing that they will have the opportunity to correct the error if caught. To support their position, the commenters cite the legislative history and OSMRE's past construction of the Act, as reflected in the 1982 preamble discussed previously. In addition, they cite *Thomas J. FitzGerald*, 88 IBLA 24, and quote the Interior Board of Land Appeals as saying that a "state regulatory authority has failed to take appropriate action * * * where it fails to initiate an enforcement action."

OSMRE has considered the comment but disagrees with the conclusion. A State regulatory authority continues to have an obligation to take the actions provided in the approved state program to cause a violation to be corrected. In most situations, that means issuing an NOV. In a few instances, other action may be appropriate, if it is authorized by the state program and if it will cause the violation to be corrected. The rule does not change that obligation.

Instead, the rule focuses on the goal of the Act itself—to see that violations are corrected. In doing so, the rule allows state discretion in how best to accomplish that goal—but only if those means are authorized under the state program. OSMRE is not permitting a "free bite", but is simply saying that the federal government will not substitute its judgment and second-guess the states on a case-by-case basis, unless the state action is arbitrary, capricious or an abuse of discretion under its program. The Act entrusts primary implementation of the law in primacy states to the state regulatory authority. The Secretary's obligation to inspect arises only after the Secretary makes the determination that the state has failed to take appropriate action or to show good cause for failing to take such action.

The commenters' assertion that sections 521(a)(1) and 517(e) of the Act do not allow OSMRE to accept anything but State issuance of an NOV or cessation order as appropriate action is incorrect.

As mentioned earlier, the term "appropriate action" is not defined in the Act. The context of the term as used in section 521(a)(1) is action which causes the violation to be corrected. If the state takes action to cause the violation to be corrected, no need exists for the Secretary to conduct an inspection of the site. For purposes of that subsection, the nature of the action is not necessarily relevant, as long as an authorized action causes abatement to occur.

OSMRE has reviewed *Thomas J. FitzGerald, supra*, and finds the case inapplicable to the rule in question. That case involved mines operating without a permit, but affecting more than two acres. Under 30 CFR 843.11(a)(2), operations without a permit pose a condition that can be expected to cause significant imminent environmental harm. The *FitzGerald* case raised the issue of whether a state has taken appropriate action when it fails to enforce a cessation order in a situation posing imminent environmental harm because of a state court injunction issued in a situation where section 525(c) of SMCRA would not provide a basis for temporary relief.

The Board of Land Appeals concluded that the state did not take appropriate action, relying in part upon the 1982 preamble which is rejected by this rule. The Board also specifically said that 30 CFR 842.11(b)(1)(ii)(B)—the section addressed by this rulemaking—was "inapplicable" because the case involved a question of imminent harm.

Other commenters generally supported the proposal, but requested clarification that appropriate action by a state in response to a ten-day notice for permit deficiencies can consist of a request for a permit revision rather than enforcement action. Another commenter specifically objected to the preamble language that would allow an application for permit revision to constitute appropriate action. That commenter argued that "appropriate action to cause the violation to be corrected" in section 521(a)(1) of the Act implies that the violation must either be abated or a citation issued within ten days. The commenter thus concluded that merely initiating a permit revision within the ten days would not be sufficient. The permit, the commenter argued, must be approved during the ten days in order to meet the terms of the Act.

The same commenter also asserted that while the Act allows a permit to be revised, the Act does not provide an exemption for the operator while he seeks a permit revision. Instead, the commenter argues that 30 CFR 773.17(c) requires a permittee to comply with the terms and conditions of a permit, and section 521(a)(3) of the Act requires state and federal officials to cite violations of permit conditions. Therefore, the commenter concludes, the only "appropriate action" a state can take when faced with a permittee's failure to comply with a permit is to issue a notice of violation.

Section 521(a)(1) of the Act provides that a state must take action to cause a violation to be corrected after receiving a ten-day notice. It does not provide that abatement must occur during the ten days. Therefore, in limited circumstances, obtaining an application for a permit revision may be appropriate to cause the violation to be corrected.

For instance, in a case where the state regulatory authority erred in issuing the permit and the permittee is performing in accordance with the permit, the appropriate state response to a ten-day notice could be to require interim steps if needed to minimize any potential environmental harm, to notify the permittee in writting that a revision is required, and then to receive an application for the required revision and establish a time period for its decision on the application. In other words, processing a permit revision rather than taking enforcement action would be appropriate action only if the state had erred in approving the permit or otherwise determines that revision is needed. On the other hand, if the operator is violating a condition of a permit, the appropriate response by the state will continue to be to issue an NOV.

Another group of commenters stated general support for the evaluation standard, but also recommended several changes with respect to the definition of appropriate action under the proposed rule. First, they requested that the definition of appropriate action in the final rule reflect the situation where the state adequately demonstrates that a condition or practice does not constitute a violation. They argue that such a request would mitigate the tendency of OSMRE to substitute its subjective judgment for that of the states and would be in accordance with court decisions that indicate that the state is in a better position to apply its approved program because of its familiarity with local conditions.

OSMRE agrees with the commenters' concern but, after considering the comment, has concluded that such situations are already covered under the definition of good cause, provided in § 842.11(b)(1)(ii)(B)(*4*)(*i*). A showing that no violation exists under the state program would constitute good cause for failure to take action to have a violation corrected. It would not fall under the category of appropriate action to cause a violation to be abated.

The same commenters also requested that the rule reflect that actual abatement of a violation is not the standard for determining whether a state response is appropriate.

OSMRE agrees with this comment. The rule provides that appropriate action is action to cause the violation to be corrected. Thus, actual abatement is not required within the ten days. Initiating an action within the ten days that would lead to abatement within a reasonable time would also be acceptable.

The commenters also requested that the definition of appropriate action in the final rule explicitly indicate that any definition of appropriate action is not exhaustive. The commenters suggested specific language that would show that the definition is not exhaustive.

After considering the comments, OSMRE has concluded that the rule already reflects the concerns of the commenters. As proposed and as adopted, § 842.11(b)(1)(ii)(B)(*3*) states that appropriate action includes enforcement or other action authorized under the state program. The language "other action" clearly shows that the definition is not exhaustive. "Other action" is confined, however, to actions that are authorized under the state program to cause the violation to be

corrected. If the "other action" cannot meet those criteria, it will not be considered appropriate because it would be arbitrary, capricious, or an abuse of discretion because of inconsistency with the state program.

In similar remarks, another commenter offered support for the proposed rule, but suggested that the definition of appropriate action be expanded to include other alternatives. The commenter, however, did not offer specific suggestions as to what those additional examples might include.

Other commenters requested specific additions to the definition of appropriate action. One coalition of commenters asked that the definition of appropriate action include agreed-upon abatement or reclamation plans. Another commenter asked that the definition of appropriate action include "state-dictated action by the operator which indicates enforcement or other action or efforts undertaken pursuant to the state program."

Both comments appear to be addressing the situation where the state regulatory authority and the permittee have agreed on abatement or reclamation plans to correct a violation.

To the extent that the abatement or reclamation plan is authorized under and follows the procedures of the approved state program, OSMRE agrees that such a plan could qualify as appropriate action. The agency is not changing the regulatory language, however, because such an example is included in the phrase "enforcement or other action authorized under the state program * * *." It should be emphasized again, however, that this rule is not intended to eliminate enforcement obligations which exist under any state program.

4. Good Cause

Section 842.11(b)(1)(ii)(B)(*4*) of the final rule lists five situations that will be considered "good cause" for the state regulatory authority to fail to take action to have a violation corrected. Those actions are: (a) Under the state program, the possible violation does not exist; (b) the state regulatory authority requires a reasonable and specified additional time to determine whether a violation of the state program exists; (c) the state regulatory authority lacks jurisdiction under the state program over the possible violation or operation; (d) the state regulatory authority is precluded by an administrative or judicial order from an administrative body or court of competent jurisdiction from acting on the possible violation, where that order is based on the violation not existing or where the temporary stay standards of section 525(c) or 526(c) of the Act have been met; or (e) with regard to abandoned sites as defined in 30 CFR 840.11(g), the state regulatory authority is diligently pursuing or has exhausted all appropriate enforcement provisions of the state program.

The first three items under good cause were adopted as proposed. The fourth and fifth items have been revised in response to comments, as discussed below. A sixth item in the proposed rule, which would have included as good cause situations where "extraordinary circumstances preclude or render futile enforcement against the possible violation," is not included in the final rule.

In comments on the proposed language, a coalition of commenters opposed any attempt to list situations that will constitute good cause for a state failing to take appropriate action. They argued that the only appropriate action that can be taken by a state in response to a violation-in-fact is enforcement action that will cause the violation to be abated, so there can never be a situation where the state's failure to issue a notice of violation for a violation-in-fact will constitute good cause.

The commenters cited the Act's legislative history to support their contention that the "state must take action to have the violations corrected," rather than show good cause for failing to do so.

OSMRE disagrees with the commenters' interpretation of SMCRA because it ignores the plain language of the Act. By including the phrase "or to show good cause for such failure * * *", Congress clearly recognized there would be situations when neither the state nor OSMRE will act immediately under section 521(a)(1) of SMCRA. Therefore, the agency's effort to define what specific situations constitute good cause is clearly authorized. In situations where good cause is based upon a problem with the state program, OSMRE will take whatever action is needed to resolve the programmatic issue.

The same commenters asserted that the only situation where a state would have good cause for failing to take appropriate action is where the state asserts that, in fact, no violation exists. In such a case, the commenters argued, OSMRE would still be obligated to inspect the site to determine whether the state response was justified.

Again OSMRE disagrees with the commenters' interpretation of the Act. In effect, the commenters themselves define good cause, but include just one of OSMRE's five categories. Although this may be the commenter's preferred policy choice, the Act allows and supports OSMRE's practical and reasonable definition of good cause.

In cases where a state concludes that no violation exists, OSMRE will defer to the state's decision unless it determines that the state conclusion was arbitrary, capricious, or an abuse of discretion. That is in keeping with the statutory framework, the congressionally mandated concept of primacy, and with the decision in *In re: Permanent Surface Mining Regulation Litigation*, quoted earlier.

As discussed earlier, in determining whether a state action is arbitrary or capricious, the Secretary will continue to make independent determinations, based on the facts in each case. Such determinations are not required to be made on the basis of inspections, however. The federal duty to inspect only occurs after the Secretary determines that the state action was not appropriate and the state did not have good cause for failing to take appropriate action. The Act does not require a federal inspection to determine whether to inspect.

Other commenters addressed the specific examples that were included in the proposed rule. Those are discussed below.

Section 842.11(b)(1)(ii)(B)(4)(i). Section 842.11(b)(1)(ii)(B)(*4*)(*i*) is the first item in the category of good cause and provides that a state regulatory authority has good cause for failing to take appropriate action to have a violation corrected if "under the state program, the possible violation does not exist." The proposed rule would have referred to whether the violation "did not," as well as does not, exist. The "did not" language has not been adopted because the key to judging the state response is how it responded to an existing violation.

A coalition of commenters opposed this provision because, it appears, they oppose any deference to the states in determining whether site conditions constitute a violation. The commenters argued that Congress intended that a federal inspection would occur in all instances as a follow-up to the ten-day notice, so that OSMRE could independently determine whether the facts constitute a violation of the program *or* of the Act. Thus, the commenters concluded that there "is no authority for interposing any review procedure of state inaction between the state response and subsequent immediate federal inspection."

As discussed earlier, OSMRE's role in primacy states is one of oversight, in

which it evaluates the manner in which a state implements the state program, rather than OSMRE taking the lead role in implementing either the program or the Act. After issuing a ten-day notice, OSMRE independently determines whether the state has taken appropriate action or shown good cause for such failure, based upon the state response.

OSMRE disagrees with the commenter's contention that OSMRE's independent determination must be based on an inspection of the site. Section 521(a)(1) states that "the Secretary shall immediately order Federal inspection" of a mine site with an alleged violation if the state regulatory authority fails within ten days after notification of the possible violation to take appropriate action or show good cause for failing to act. Thus the Act clearly envisioned that the Secretary would make a determination as to whether the state action was appropriate, before ordering a federal inspection. The commenters, on the other hand, appear to be arguing that an inspection is required in every instance in order to determine whether to inspect. Such a conclusion is contrary to the language and purpose of the statute.

With regard to the commenter's contention that good cause should be based upon whether a violation of the Act exists, a state should only be expected to act under the terms of its state program, which was approved by the Secretary as being consistent with the Act following the opportunity for public participation. If any aggrieved person believed that the approved state program was not consistent with the Act and the Secretary's regulations, the program approval was subject to challenge under section 526(a)(1) of SMCRA. At this point, such challenges have almost all been resolved. Also, adversely affected persons may continue to bring actions under section 520(a)(2) to address Secretarial or state regulatory authority failure to perform non-discretionary duties arising out of program deficiencies.

In situations which do not involve significant imminent environmental harm or danger to the public health and safety, neither an obligation nor a compelling reason exists for OSMRE to conduct a federal inspection with regard to facts which, even if true, do not constitute a violation of the state program. The proper course of conduct under such circumstances is for OSMRE to inquire whether the state program accords with the Act. If not, the state program should be changed and, when necessary, may be superseded by OSMRE under 30 CFR 730.11(a).

OSMRE recognizes that situations which ultimately will become violations of the state program might continue until the required state program change occurs. With respect to requirements that should be included in a state program, however, neither section 521(a)(1) nor any other section of the Act requires the issuance of a notice of violation until the state program undergoes modification.

Because the requirements of the Act are implemented in a primacy state through the state program, operators in a state are directly answerable under the state program. *See Haydo, supra.*

To judge whether the state has taken appropriate action, or has shown good cause, under the terms of the Act instead of under the state program, is not fair to the operator performing in accordance with the state program. The operator should be responsible under one set of standards, and not be subject to enforcement sanctions for violating other standards when he was not on notice of such standards.

Section 842.11(b)(1)(ii)(B)(4)(ii). Section 842.11(b)(1)(ii)(B)(*4*)(*ii*) includes as good cause situations where state regulatory authorities require reasonable and specified additional time to determine whether a violation of the state program exists. Several commenters expressed support for this provision and viewed the example as one illustrating the "traditional discretion afforded administrative agencies."

Another group of commenters opposed this category. They asserted that failure of a state to take enforcement action within ten days in a situation that OSMRE believes constitutes a violation-in-fact would, by definition, be an inappropriate response because the state exceeded the time certain allotted by Congress. Congress, they said, has already given the state ten days in which to act and if Congress had wanted to give states more time, or to allow a period of "non-decision," it would have done so explicitly.

OSMRE agrees that the state's response to a ten-day notice is required within ten days, as specified by Congress in section 521(a) of the Act, but has concluded it may be reasonable for a state, in certain cases, to respond that it needs a specified amount of additional time to determine whether a violation does, in fact, exist. This situation might arise, for example, where technical analysis or laboratory work must be conducted on soil or water samples collected at a mine site in order to establish that a violation exists or to enable the regulatory authority to make the finding to support a permit revision under 30 CFR 774.11(c) where an operator is acting in compliance with a defective permit.

Under section 521(a)(1) of the Act, the state regulatory authority has an obligation within 10 days to take action to cause a violation to be corrected or to show good cause why it has failed to take such action. Thus, Congress clearly provided for a situation where the state was unable to act within the 10 days to have the violation corrected, but where the state had good cause for its inability to act. OSMRE's obligation to immediately inspect the site arises only after the state regulatory authority fails to take appropriate action or fails to show good cause for such failure within 10 days. If the state has good cause for not acting, such as needing additional time for technical or laboratory analysis, then OSMRE's obligation to inspect has not yet arisen.

A ten-day notice only describes the existence of a possible violation. Before an enforcement action can be taken, the state or OSMRE must be able to prove a violation exists, which in some cases may require more than 10 days. Where a state regulatory authority has shown that it is diligently pursuing the facts to determine whether a violation exists, it would be improper to require the state to take enforcement action before the state concludes a violation exists.

Another commenter expressed concern that allowing states more time in which to make a determination would offer an opportunity for abuse and would allow unlimited time for violations to be forgotten or abated without ever being cited as required under sections 521 (a)(3) and (d) of the Act.

OSMRE agrees that the need for more time must not be allowed to become an abused provision. The rule allows the need for additional time to constitute good cause only where the state regulatory authority demonstrates that it requires a *reasonable and specified* amount of additional time—not unlimited time. By limiting the additional time allowed to a reasonable and specified amount, OSMRE has reduced the potential for abuse.

Section 842.11(b)(1)(ii)(B)(4)(iii). Section 842.11(b)(1)(ii)(B)(*4*)(*iii*) includes as good cause, "the state regulatory authority lacks jurisdiction under the state program over the possible violation or operation."

One group of commenters asserted that even if a state lacks jurisdiction, OSMRE would still have jurisdiction and would be required to order a federal inspection.

The commenters are wrong in focusing on OSMRE's jurisdiction to conduct federal inspections. As mentioned earlier, section 517(a) of the Act provides authority for the Secretary to conduct inspections in primacy states to evaluate the administration of state programs. The issue under section 521(a)(1), however, is not whether authority exists for a federal inspection, but whether the state has shown good cause so as not to trigger the Secretary's obligation to inspect.

The same commenters also said that section 517(e) of SMCRA calls for a federal inspector to issue an NOV whenever the inspector sees a violation of a state program or of the Act.

As can be inferred from the earlier discussion of section 517(e), OSMRE disagrees with the commenters' interpretation of that section. Section 517(e) does not separately require the Secretary to issue a notice of violation in a primacy state. In determining the Secretary's enforcement role in primacy states, section 517(e) must be read together with section 521. Thus, in situations covered by section 521(a)(3), the issuance of a federal NOV would implement section 517(e). Under section 521(a)(1), however, instead of immediately issuing an NOV in a primacy state, the Secretary provides a state and the permittee with a "ten-day notice," the notice of the possible violation, and gives the state the opportunity to have the violation corrected. In such circumstances, providing the ten-day notice implements the section 517(e) requirement.

If section 517(e) required the issuance of an NOV upon detection of each violation by every Federal inspector during oversight and other inspections, it would make superfluous both the state notification provisions of section 521(a)(1) and the carefully drafted language prescribing the applicability of section 521(a)(3) of SMCRA.

This interpretation of section 517(e) is not new and is consistent with OSMRE's previous regulations. In the 1979 adoption of 30 CFR 843.12(a)(2), the section which provided a procedure for the issuance of federal NOVs in a primacy state, OSMRE specifically adopted a procedure whereby a federal NOV would not be written on an initial inspection, but would await until notification was provided to the state for the state to act. (44 FR 15303, March 13, 1979.)

The commenters also said that the state programs, in theory, have jurisdictional provisions identical to those required by the Act and, to the extent that they do not, OSMRE should require corrective amendments under 30 CFR Part 732. In the absence of state jurisdiction, however, the commenters asserted that OSMRE would continue to have an obligation to inspect, because the state took no action to cause the violation to be corrected. The commenters also argued that Congress could not have intended violations to go uncorrected during pendency of the amendment process.

OSMRE agrees that where a state lacks jurisdiction because of deficiencies in the approved state program, OSMRE must require a program amendment under 30 CFR 732.17, the assure that the state program is in accordance with the Act and consistent with the federal regulations.

OSMRE disagrees with the commenters' view that a jurisdictional deficiency in the state program imposes an inspection duty on OSMRE. Under section 521(a)(1), OSMRE's responsibility to inspect following a ten-day notice arises when the state fails to take appropriate action to cause a violation to be corrected and fails to show good cause for such a failure. If the state lacks jurisdiction, then the state has good cause for failing to act. If a state has good cause, then OSMRE's obligation to inspect a site, other than through oversight inspections or in cases of imminent harm, has not come into being.

Disagreements over the jurisdictional reach of state programs and the Federal Act and regulations should be few and few between. But the federal/state experience over the last several years has shown that the disagreements do occur, however, seldom. Under the previous ten-day-notice rules, which did not defined "good cause" and "appropriate action," operators could be given conflicting directions from two different governing entities. By this final rulemaking, OSMRE intends to allow a consistent and rational process to resolve disagreements and to avoid unnecessary issuance of a federal NOV to an operator merely because OSMRE and the state cannot resolve the disagreement between them on the eleventh day.

In theory, disagreements should never exist. Before the Secretary may approve a state program, the state program must be consistent with, and cover the same ground as, the federal Act and regulations. While adopted in the first instance by a state, a state program becomes Federal law when approved by the Secretary and promulgated as Federal regulation. (44 FR 15023, March 13, 1979.) The State program must be "no less stringent than, meet the minimum requirements of, and include all applicable provisions of the Act" and be "no less effective than the Secretary's regulations in meeting the requirements of the Act." 30 CFR 730.5 and 732.15(a). Federal standards imposed by the Act are thus enforced through the state program. If, in practice, jurisdictional reach disagreements arise, most likely these are the fault of either the Secretary or the state, and not the fault of the operator. Rather than sort out disagreements after operators have been issued federal NOVs, OSMRE intends this rulemaking to allow disagreements, to be sorted out without unnecessary issuance of federal NOVs. (It should be understood that notwithstanding these procedures, Federal enforcement action will be taken to resolve imminent harm situations.)

Comments asserted that OSMRE has an obligation to issue an NOV for a violation of the Act in a primacy state, even if the condition is not a violation of the state program.

The commenters are wrong in asserting that OSMRE must issue NOVs for "violations of the Act" which are required to be, but have not yet been, incorporated into a state program. Until jurisdictional deficiencies are resolved, the state program governs state and operator actions. Congress clearly intended operators to be responsible for complying with only one set of regulations—either state or federal, but not both. As a result, in primacy states the Act is implemented through the approved states program rather than directly. Thus factual situations which the commenters characterize as "violations of the Act" are not enforceable against operators until incorporated, as required, into the state program. This was recently recognized by the U.S Court of Appeals for the Third Circuit when it stated that "Sections 512 and 515 [of SMCRA] set forth standards for approved regulatory programs and impose no duties on operators themselves." *Haydo v. Amerikohl Mining, supra*, 830 F.2d at 498, n.2.

The limitations under which OSMRE can issue NOVs in primacy states do not apply to situations involving imminent harm. Significant imminent harm to the environment or danger to public health or safety, is prevented through OSMRE's power to issue cessation orders under 30 CFR 842.11(b)(1)(ii)(C) and 843.11(a). Under § 843.11, and under section 521(a)(2) of the Act, OSMRE may issue cessation orders for conditions or practices, as well as violations, which create an imminent danger to the health or safety of the public, or is causing, or can be reasonably be expected to cause significant imminent environmental

harm. Thus the Act provides a mechanism through which to abate significant harm or dangerous conditions, regardless of whether the state program prohibits the condition or practice causing such harm or danger.

Similarly OSMRE is not precluded from taking enforcement action with respect to requirements of the Act directly imposed upon an operator which are not required to be included in state programs. One example would be the obligation to pay Abandoned Mine Reclamation Fees and otherwise comply with Title IV of the Act, 30 U.S.C. 1231–1243, which exists regardless of its inclusion in a state program.

Another commenter asserted that lack of jurisdiction might be "good cause" for the state not acting, but not for OSMRE to fail to act. To support that contention, the commenter cited section 504(b) of the Act, which provides that where a state, with an approved state program, is not enforcing a part of its program, the Secretary may provide for federal enforcement under the provisions of section 521. Section 521(a)(3), the commenter then points out, states that federal inspectors shall issue NOVs where a federal inspection is carried out pursuant to section 504(b), among other reasons. From this, the commenter concludes that even where a state is justified for not correcting a violation because of lack of jurisdiction, OSMRE is required to inspect.

OSMRE agrees in part and disagrees in part with the comment. OSMRE agress with the commenter's apparent acceptance that lack of jurisdiction by the state constitutes good cause for the state's failure to act. That is all a state has to show in response to a ten day notice under section 521(a)(1) of SMCRA.

OSMRE disagrees with the commenter's view that OSMRE must take enforcement action despite the good cause showing by the state. Such an interpretation reads the good cause provision out of the Act. Section 521(a)(1) plainly provides that if good cause exists, then OSMRE is not obligated to perform an inspection under that section in non-imminent harm situations.

It is possible, however, that in certain limited circumstances a state may not have jurisdiction to take enforcement action because particular facts, which are required by the Act to constitute a violation of the state program, are not in fact a violation of the state program. Under such circumstances, the operator is not subject to the issuance of an NOV by OSMRE because the violation of a requirement of the Act results from the state program deficiency, not the conduct by the operator.

Future jurisdictional disputes should be rare because, after six years of primacy, OSMRE oversight has resolved major issues stemming from deficiencies in the state programs. Generally, the only remaining areas of difference relate to OSMRE adopting new regulations—typically the result of policy changes or court orders—after the state program approvals. Although such new rules must be reflected in state programs, operators are ordinarily given time to comply before enforcement action is taken following necessary state program changes.

OSMRE also disagrees with commenter's interpretation of section 504(b) of SMCRA. That section refers to a state's failure to enforce any part of its approved program. Where the state's approved program fails to provide jurisdiction, the state is not failing to enforce its approved program, and therefore section 504(b) does not apply.

Section 521(a)(1) is not the only provision of the Act under which congress allowed corrective action, such as a state program amendment, to occur without enforcement action being taken immediately. For instance, Section 521(b) provides the mechanism through which the Secretary assumes responsibility for enforcing a state program if the state's enforcement is found to be inadequate. The section provides, however, that permittees who are in compliance with a state permit are to be given a reasonable time to conform to the Act. Thus Congress recognized that a period would exist during which regulatory requirements would not be met—and Federal NOVs would not be issued—because of a lapse in enforcement of a state program.

Congress recognized, in various sections of the Act, that the Federal/State relationship and the actions of the regulatory authority may not be perfect. The Act includes a number of procedures, all of which take time, to remedy the potential imperfections. The current rules implementing the Act provide, basically, four mechanisms to sort out potential Federal/State disagreements: (1) 30 CFR Part 732, (2) 30 CFR 730.11, (3) 30 CFR Part 733, and (4) the rules affected by this final rulemaking. Which of these four mechanisms is most apt for resolving a particular disagreement, of course, depends on the facts.

When State law itself is the problem, and not just its implementation, Congress explicitly provided procedures in sections 504 and 505 of the Act to resolve them. Those sections have been implemented at 30 CFR 730.11, regarding federal preemption, and at 30 CFR Part 733, regarding federal programs. Also, 30 CFR Part 732 provides the process for State program amendments when appropriate. When state program implementation is the problem, Congress explicitly provided procedures in sections 504(a)(3), 504(b) and 521(b) of the Act to deal with the failure of a state to implement, enforce, or maintain the approved state program. Again, all of these mechanisms take time. See section 504(c), 30 CFR 733.12. In the sections Congress explicitly recognized that a permittee might not be in compliance because of state regulatory mistake and through no fault of his own, sections 504(d) and 521(b) of the Act, Congress directed the Secretary to give the permittee a reasonable time for compliance.

In sections 521(b), 521(a), and 520(a)(2) of the Act Congress has implied that permittees should not always be responsible for error authorized by the regulatory authority. The "reasonable time" allowed in section 521(b), the ten day period for a state to show "appropriate action" or "good cause" in section 521(a), and the limitations on citizen suits in 521 for violations of "any rule, regulation, order or permit", rather than violations of the Act, all point to the conclusion that Congress intended a procedural time "buffer" before making an operator responsible for the consequences of a mistake by the state regulatory authority or OSMRE. In keeping with this congressional recognition and intent, this final rulemaking provides an explicitly consistent and rational procedures concerning federal intervention on a mine by mine basis in a primacy state.

Section 842.11(b)(1)(B)(4)(iv). Section 842.11(b)(1)(B)(*4*)(*iv*), the fourth category listed for good cause, provides that where the state regulatory authority is precluded from acting on the possible violation because of an order issued by administrative body or court of competent jurisdiction, good cause will exist for the state's failure to act.

To reflect the concerns expressed by the commenters, OSMRE has revised the language of the final rule, in § 842.11(b)(1)(ii)(B)(*4*)(*iv*), to articulate more clearly the basis on which OSMRE will conclude an injunction is good cause. OSMRE will view the state regulatory authority as having good cause for not taking action to have a violation corrected when it is precluded from doing so by an order from an administrative body or court of competent jurisdiction, but only where that order is based on the violation not

existing or on the temporary stay standards of section 525(c) or 526(c) of the Act being met. Such circumstances would demonstrate that the state court or administrative body was acting within the confines of the approved state program and no need exists for mine-specific federal intervention. The category as adopted is narrower than the proposed rule, which did not contain the latter constraints.

Commenters opposed the proposed provision, arguing that it conflicts with OSMRE's independent obligation to inspect and enforce, as mandated by sections 517(e) and 521(a)(1) of the Act. The commenters cited *Thomas J. FitzGerald, supra*, and quoted the Interior Board of Land Appeals as saying that a regulatory authority has failed to take appropriate action under section 521(a)(1) of the Act not only where it fails to initiate enforcement action, but also where it is unable to pursue that action because of a court injunction. The commenters concluded that if a thwarted attempt to take enforcement action is not appropriate action, then failure of the state to take action in the first instance because of a bar to such action would not constitute good cause for the inaction.

Other commenters reflected the opposite opinion, expressing support for the proposal. They cited *Midwestern Mining Consultants, Inc. v. DNR of Indiana and OSM,* Civ. No. EV 83–102–C (S.D. Ind. July 17, 1984), to support their conclusion that a state will have already met the statutory requirement for taking appropriate action based on the initial enforcement action which was later enjoined.

The *FitzGerald* case, discussed earlier, addressed the question of "appropriate action" when a situation exists posing imminent environmental harm. The Board found that 30 CFR 842.11(b)(1)(ii)(B), the subject of this rulemaking, was inapplicable because the state had taken action to secure abatement of the violation by issuing cessation orders. It went on to find that the state had failed to take "appropriate action," even though it had issued cessation orders, because it was later enjoined from enforcing those orders by a state court, which did not apply the temporary relief standards in the state program. The Board concluded that, based on the facts, temporary relief would not have been available under section 525(c) of SMCRA. 88 IBLA 24, 29 at n.4. Given these considerations, the result reached in the *FitzGerald* case appears consistent with this rule.

Midwestern involved a mine operating wtihout a permit, and therefore, under 30 CFR 843.11(a)(2), posed a danger of imminent environmental harm. As in *FitzGerald*, a state court had enjoined the state regulatory authority from enforcing cessation orders against the operator. In *Midwestern*, OSMRE attempted to take enforcement actions, and issued a federal NOV against the operator. The court found that OSMRE had no jurisdiction in the situation and stated that "[t]he Secretary must contact the state regulatory board and wait for that board to take appropriate action. This requirement is only waived if there is evidence of 'imminent danger of significant environmental harm' and 'if the State has failed to take appropriate action' * * *." *Midwestern*, Slip op. at 6. The court went on to conclude "the State of Indiana had taken action against plaintiff for certain violations, and a state court had promptly granted a preliminary injunction against the State * * *. The State did take appropriate action; it was simply enjoined from enforcing that action. Since there was no imminent environmental danger and the state had taken appropriate action, the Secretary could not avoid his obligation to allow the State regulatory authority to remedy this situation." *Id.*

Thus the court in *Midwestern* reached a conclusion contrary to that of the Interior Board of Land Appeals in *FitzGerald* on similar facts. However, the Board in *FitzGerald* based its decision on the fact that not only was imminent environmental harm posed, but also that the state court made no finding that the operators were likely to prevail on the merits.

Some commenters supported the rule but expressed concern over language in the preamble to the proposed rule. In the preamble to the proposed rule, OSMRE said that if a state were seeking to overturn the injunction, good cause would exist, but if a state was not seeking to overturn the restraint, OSMRE would examine the state action and determine whether it was arbitrary, capricious, or an abuse of discretion under the state program.

The commenters asked that OSMRE delete any reference in the final rule to a federal examination of state decisions not to appeal restraining orders or adverse decisions. They argued that for OSMRE to override the relief granted the operator at the state level would completely undermine the relief provisions set forth in section 525 of the Act and would subject an operator to double jeopardy by having to prevail at both the state and federal level.

OSMRE has considered the conflicting comments and court decisions, and believes that a state regulatory authority has good cause for not taking action when it is enjoined from doing so by a state administrative or judicial body acting within the scope of its authority under the state program. A state regulatory authority is enforcing state law and a state regulatory program, and state courts have jurisdiction to interpret those state laws. Although a state regulatory authority cannot disregard an injunction issued for any reason by a state court, OSMRE concludes that good cause exists for the regulatory authority not acting only where the order has a proper basis. Such a basis would exist if the temporary relief criteria of the state program (which presumably would reflect those in sections 525 and 526 of SMCRA) are satisfied or if the state court concluded the violation does not exist.

OSMRE is aware of concerns that a limited number of courts might not base their decisions on the temporary relief criteria of the state program. Those concerns were the basis for the language in the proposed preamble that OSMRE would review state decisions not to appeal in determining whether an injunction constituted good cause. After considering the comments, OSMRE has concluded that consideration of whether an appeal was taken is unnecessary to the determination of whether the state administrative or judicial review body acted properly within the authority of the state program.

As a result, OSMRE will examine decisions by the state not to appeal judicial or administrative orders barring state enforcement action only to the extent that such decisions illustrate state program effectiveness or ineffectiveness. In other words, if OSMRE disagrees with a decision of the state not to appeal an administrative or judicial restraint, actions provided under Parts 732 and 733 will be the appropriate mechanism for resolution of that particular disagreement.

In other comments on § 842.11(b)(1)(ii)(B)(*4*)(*iv*), a commenter suggested that OSMRE may want to reconsider the proposal to the extent it would permanently bar OSMRE from taking action when the state is administratively or judicially precluded from acting. The commenter pointed out that, given the wide variety of administrative and judicial procedures among the states, some regulatory authorities could be precluded from acting for unreasonable lengths of time, which would be unfair to those states with more expeditious procedures. Therefore, the commenter suggested that OSMRE consider imposing a reasonable, maximum time limit for state inaction,

after which OSMRE would have the option, but not necessarily the duty, to initiate federal action.

OSMRE disagrees and will not impose a time limit as suggested by the commenter. OSMRE will not intervene in a case because of the duration of injunctive relief granted by state administrative or judicial review authorities. Rather, OSMRE will examine the basis for the relief, and OSMRE will closely watch for patterns of departure from the state's administrative and judicial procedures.

Section 842.11(b)(1)(ii)(B)(4)(v). As proposed, § 842.11(b)(1)(ii)(B)(*4*)(*v*) provided that the state has good cause for failing to take action against a violation if the state regulatory authority is diligently pursuing or has exhausted other appropriate enforcement provisions of the state program. The final rule has been revised to make it clear that this category will only apply to abandoned sites, as defined in 30 CFR § 840.11(g), promulgated June 30, 1988 (FR 24872) in a separate rulemaking.

Commenters asserted that proposed categories v and vi under good cause, would eliminate the obligation of state regulatory authorities to issue a notice of violation for every violation observed, regardless of whether enforcement actions for previous unrelated violations are pending. The commenters argued that the agency is without authority to abridge this enforcement obligation. They cite case law, the legislative history of the Act, and past OSMRE policy to support their contention that sections 517(e), 521(a)(3), and 521(d) of the Act make issuance of an NOV by states mandatory and unconditional for each violation detected, in all cases.

Furthermore, the commenters argued that the rule, if adopted, would be an "open invitation to abuse" by state regulatory authorities, and point to the history of "two-acre" enforcement efforts in Kentucky to support their contention.

OSMRE agrees with this comment when applied to violations of the state program at all but abandoned sites, and has revised the final rule accordingly. For all sites, except those which qualify as abandoned, good cause would not ordinarily exist where a violation of the state program exists, state action is not causing the violation to be corrected, and the state has not taken enforcement action.

Abandoned sites present a more complicated situation. Under the final abandoned sites rule, abandoned sites include those at which surface and underground coal mining and reclamation activities have ceased, an unabated failure-to-abate cessation order remains outstanding (or service of a notice of violation could not be completed), alternative enforcement is proceeding, permits no longer are current, and bond forfeiture is proceeding. These criteria describe sites at which the regulatory authority has been unsuccessful at achieving reclamation despite diligent efforts to do so. Under the abandoned sites rule, sites that are classified as abandoned may be inspected at a frequency of less than eight partial and four complete per year because inspections of such sites are unlikely to lead to the resolution of problems at the sites.

In the abandoned sites rule, OSMRE provides in 30 CFR 843.22 that a notice of violation or cessation order need not be issued for a violation at an abandoned site if abatement of the violation is required under any previously issued notice or order. Thus, if in response to a ten day notice a state regulatory authority informs OSMRE that the site in question is an abandoned site and an earlier order requires abatement of the violation detected, then good cause would exist for no further enforcement action to be taken.

The preamble to the abandoned sites rule makes it clear that in situations not covered by § 843.22, the regulatory authority would continue to be obligated to take enforcement action when it observed a violation at an abandoned site, even though the issuance of either a notice of violation or a cessation order is unlikely to cause additional reclamation and would almost certainly generate uncollectible penalties. OSMRE reached this conclusion because it concluded that the Act mandates the regulatory authority to take such action.

With regard to the present rule, if in response to a ten day notice a state regulatory authority informs OSMRE that it has classified a site as abandoned because it meets the criteria enumerated above, the Secretary may consider such a response good cause under section 521(a)(1). Good cause would exist because a Federal inspection followed by Federal enforcement action would likely be as fruitless as state enforcement action in such circumstances.

Proposed § 842.11(b)(1)(ii)(4)(vi). The final rule does not include the provision proposed as § 842.11(b)(1)(ii)(*4*)(*vi*). As proposed, that paragraph provided that a state would have good cause for failing to take action to cause a violation to be corrected if "extraordinary circumstances preclude or render futile enforcement against the possible violation." The state would have had to show that further enforcement action would not likely cause the correction of a violation in such circumstances or serve any other useful purpose.

One commenter expressed concern that including "extraordinary circumstances" as good cause is "neither clear nor adequately justified in the proposal." The commenter also stated that in the case of abandoned sites, the proposal would allow a state to take no enforcement action simply because of an operator's inability to comply, contradicting 30 CFR 843.18(a), which provides that no cessation order or notice of violation issued under Part 843 may be vacated because of inability to comply.

Another commenter supported the provision but recommended replacing the word "extraordinary" with language reflecting merely that further enforcement actions are unlikely to achieve compliance. The commenter cited cases where enforcement action is futile even though all available enforcement actions have not been exhausted. As an example of such a situation, the commenter points to interim program violations that remain because the operator has fled or has declared bankruptcy and has no assets with which to correct the violations.

After considering the comments, OSMRE has concluded that the proposed category was too broad. The category was originally intended to provide flexibility in responding to unique situations that can occur in enforcing the Act at mining operations. The result of the item, however, would have been to create a standard which would not necessarily have covered all possible situations which constitute good cause and which could have included circumstances that do not constitute good cause. OSMRE has decided not to adopt a sixth category because it is not possible to specify precisely what would be contained in it.

The five items listed in § 842.11(b)(1)(ii)(B)(*4*) as constituting good cause for a state's failure to act are not meant to be exhaustive. However, any other situations that will constitute good cause will have to be determined on a case-by basis under the standard of whether they are arbitrary, capricious or an abuse of discretion under the state program.

Requests for Additional Examples. In addition to the comments on the specific instances proposed as constituting good cause, OSMRE received a number of comments asking that other examples be included as well. Some asked that specific situations be included, while

other merely asked for additional, but unspecified, examples.

A large number of the commenters requested the addition of four specific categories of good cause. Those were: (1) Prior state administrative or judicial adjudication that a condition or practice does not constitute a violation of the state program; (2) the state has terminated its notice of violation for the same condition identified in a ten day notice; (3) state enforcement action is currently under administrative or judicial appeal; and (4) the state has released the reclamation bond. The commenters pointed out that these are examples where the state has taken some action. The regulations authorizing federal enforcement, the commenters said, were promulgated to address only those situations where a state fails or refuses to take action in the first instance, not for purposes of overriding state action or decisions.

OSMRE agrees that prior adjudications that a condition or practice does not constitute a violation of the state program would be good cause for the state not to take action. That situation, however, is already included in the first category of the proposed rule, namely, that "under the state program, the possible violation does not exist". Before concluding that good cause has been shown, OSMRE will ensure that the possible violation which is the subject of the ten day notice would be governed by the prior adjudication.

The issuance by the state of a notice of violation, and the subsequent termination by the state of the notice of violation, where the violation is fully abated, would constitute appropriate action on the part of the state—not good cause for failure to act. If, on the other hand OSMRE determines that the termination was premature, the issuance and termination would constitute neither appropriate action nor good cause for failure to act.

The next situation suggested by the commenters—state enforcement action under administrative or judicial appeal—would represent appropriate action in the absence of a stay because the filing of an appeal does not stay a permittee's obligation to abate a violation. Moreover, if a permittee received temporary relief based upon the state counterpart to the SMCRA standards, good cause would exist under section 842.11(b)(1)(ii)(B)(*4*)(*iv*), which provides that good cause for failing to take appropriate action includes the state regulatory authority being precluded from acting on the possible violation by an administrative or judicial order based on SMCRA's temporary relief standards.

The issue of bond release—the fourth item the commenters asked to be added—turns on the point at which a state regulatory authority has concluded that reclamation has been achieved in accordance with the state program, and an operation is no longer a surface coal mining and reclamation operation as defined in the Act. Whether bond release constitutes good cause for failing to take appropriate action, will depend on the conditions surrounding the bond release. Under normal circumstances, bond release would constitute good cause. Where charges are made of collusion or impropriety in the bond release, however, OSMRE would evaluate how the state responds to those charges in determining whether the state response is arbitrary, capricious or an abuse of its discretion. A separate final rule is currently being prepared which will address the relation between final bond release and termination of regulatory jurisdiction.

5. Informal Review Process

The final rule adds an informal review process in § 842.11(b)(1)(iii). The final rule is substantially the same as was proposed. Changes are discussed below.

Request for review. Section 842.11(b)(1)(iii)(A) requires OSMRE's authorized representative to notify the state regulatory authority immediately in writing of any determination by OSMRE that the state has failed to take appropriate action to cause a possible violation to be corrected or to show good cause for such failure. The rule allows the state regulatory authority five days to request an informal review by the Deputy Director of OSMRE. The state request must be received by OSMRE within five days of the state's receipt of OSMRE's written determination.

Inspection stayed. Section 842.11(b)(1)(iii)(B) provides that no federal inspection will take place, nor will a notice of violation be issued, regarding the ten-day notice until the time to request informal review has passed, or, if informal review has been requested, until the deputy director has completed the review. The provision is the same as that proposed except for the addition of a clarification that the stay in inspecting during the time allowed for requesting review will not apply if a cessation order is required under § 843.11 or it the state has waived its right to appeal by failing to response to the ten-day notice.

Decision on review. Section 842.11(b)(1)(iii)(C) provides that OSMRE's deputy director will review the written determination of the authorized representative and the state's request for informal review, and will either affirm, reverse, or modify the determination within 15 days. A written explanation of the decision will be provided to the state and to the permittee, and if the decision is to affirm the previous decision, the deputy director will immediately order a federal inspection or reinspection. If the ten-day notice resulted from a request for a federal inspection under 30 CFR 842.12, the person requesting the inspection will be notified of the deputy director's decision.

One commenter asserted that the times proposed for requesting review and for the deputy director to make a decision are too restrictive. That commenter suggested that the regulatory authority should have fifteen days instead of five to file a request for review of the written determination. In addition, the commenter suggested the deputy director should have thirty days instead of fifteen to either affirm, modify, or reverse the written determination. The commenter stated that the suggested time requirements are similar to other filing requirements in the Act, and would increase the likelihood that disagreements between the state and OSMRE can be settled without involving the deputy director.

Another commenter also expressed concern that five days is insufficient time in which to file a written request for an informal review if that notice must be delivered to Washington, D.C. or otherwise out-of-state. The commenter recommended expanding the time limit from five to ten days. The commenter also suggested adding a provision that would authorize the deputy director to request additional information within a reasonable time.

OSMRE disagrees with the suggestion for expanding the time to request review. While the agency recognizes that five days is a short period of time, any longer delay could increase the potential for environmental harm. To help alleviate the time constraints, however, a provision has been included in the final rule allowing a state to submit a request for review by the deputy director either to the nearest OSMRE field office or to Washington, DC.

OSMRE also disagrees with the suggestion that the deputy director needs to be expressly authorized to request additional information. The written record of the ten-day notice, the state response, the authorized representative's written determination on the adequacy of the state response,

and the original inspection (if applicable) should be sufficient for the deputy director to render a fair decision. If these are not sufficient, however, additional information can be required under the rule.

A group of commenters supported the proposed provision but requested that the permittee be afforded the opportunity to submit written information to the Deputy Director to assist in evaluating the state request for review. Another commenter asked that the permittee be allowed to request review of the written determination, even if the state regulatory authority chooses not to request informal review.

A separate group of commenters argued that because Congress intended that citizens be involved in administrative processes under the Act, any informal review procedure must provide the opportunity to participate to persons having an interest that may be adversely affected by the review. The group also sought clarification of the rule's impact on the public's right, provided by other sections of the Act, to seek informal and formal review of a decision by OSMRE not to take inspection or enforcement action.

OSMRE disagrees with both the request for public and permittee participation in the informal review process. A ten-day notice is not an enforcement action. Instead, it is a communication device between OSMRE and the states. The informal review process is intended as a mechanism for states and OSMRE to resolve programmatic disagreements prior to mine-specific federal intervention. Public participation, whether for private citizens or for permittees, could tend to convert the process into an adversarial proceeding, which could delay a decision and unnecessarily divert the focus. Thus OSMRE has decided not to provide additional participation in the informal review process.

To the extent that OSMRE decides not to inspect, based on a state having taken appropriate action or shown good cause, 30 CFR 842.15 continues to apply and provides that any adversely affected person may ask the OSMRE Director for informal review of a decision not to inspect. Thus the public is protected.

Similarly, if a state chooses not to request review of a determination that it had not taken appropriate action or shown good cause or, if, following such a review, the OSMRE deputy director concludes that a federal inspection is required, a potentially affected permittee is not aggrieved. The permittee will continue to have the right to seek administrative review of any federal NOVs that may later be issued to it.

Several commenters expressed support for § 842.11(b)(1)(iii). They asserted that if federal inspection and enforcement proceeded during the pendency of a state appeal, the possibility would arise to simultaneous review by the deputy director and the Office of Hearings and Appeals (OHA) if the permittee appealed the citation under Section 525. Although OSMRE appreciates the commenters' support, the purpose of the rule is not so much to avoid simultaneous review, but to avoid making the deputy director's review meaningless. It does not make sense for a federal inspection to be conducted while the deputy director is reviewing the determination which, if not reversed, will lead to a federal inspection.

Other commenters expressed concern with the provision. One pointed out that while OSMRE's determination as to the adequacy of the state response may sometimes be made solely on the record in the case, in other cases it would be difficult to make a proper evaluation without an inspection. The commenter cites as an example a situation where a state claims that an alleged violation does not exist. In such a case, the commenter points out, it may be very difficult for OSMRE to evaluate such a response without first-hand knowledge about the conditions at the site. To resolve the problem, the commenter suggests that OSMRE make inspections for "information gathering purposes only" that would not lead to issuance of a federal NOV to the permittee.

OSMRE has considered the comment, but has concluded the proposed change would defeat the purpose of the inquiry which is to decide whether a federal inspection is required, or to defer to the state. The Secretary's duty to inspect under section 521(a)(1) arises only after the Secretary makes a determination as to the adequacy of the state response. It does not make sense for OSMRE to conduct an inspection only to decide whether to conduct an inspection.

Another group of commenters noted that while they have no objection to a review procedure per se, they consider the proposed procedure illegal because it delays the "mandatory obligation of OSMRE to conduct a federal inspection on the eleventh day after the ten-day notice is sent and to take all required enforcement until such review is completed * * *." Another commenter pointed out that totaling the 10 days allowed for a state to investigate after receiving a ten-day notice, the five days to appeal a written determination of inappropriate response, and the fifteen days for the deputy director to review the issue, allows 30 days to elapse, during which no federal inspection will take place. This, the commenter asserted, does not include additional time for mailing delays or time needed for the authorized representative to make the initial written determination as to whether the state response was appropriate. This time frame, the commenter stated, falls outside the time allowed under section 521(a)(1) of the Act.

OSMRE appreciates the commenters' concerns over the time required to implement the review procedure, but concludes the time is justified and is consistent with the Act.

As an initial matter, the commenters misinterpret the time limits imposed by the Act. Two time directives are set forth in section 521(a)(1) of the Act, which states if "the state regulatory authority fails within ten days after notification" to take appropriate action or show good cause, then the Secretary shall immediately order federal inspection. The "ten days" requirement establishes the response time for state regulatory authorities, but creates no duty upon the Secretary.

The Secretary's responsibility is "immediately" to order a federal inspection when he determines that the state did not take appropriate action or show good cause for such failure. Until such a determination is made, no obligation exists to conduct a federal inspection. Given the statutory goal of protecting the environment, the Secretary's determination must be made expeditiously. The statute does not specify, however, that the determination of the adequacy of the state response, or that the follow-up inspection, must occur on the eleventh day following notification to the state.

Sound reasons exist for the Secretary to establish procedures to assist him in determining the adequacy of the state response. Under the Act, state regulatory authorities bear the primary responsibility for enforcing the law. Therefore, the Secretary should not take lightly any determination that a state has abused its discretion. Where programmatic concerns surface, it is entirely appropriate to allow the state to express its views and involve agency policymakers in the decision. The review procedure does just that. The time provided for the review has been kept to a minimum, however, to assure that possible violations of state programs are not left uncorrected for any longer than necessary.

In promulgating this rule, OSMRE views as key the fact that abatement of significant imminent harm to the

environment or danger to the public health and safety is unaffected by the review procedure and will continue under 30 CFR 842.11(b)(1)(ii)(C) and 843.11. Because of that protection, as well as for the other reasons discussed above, OSMRE believes the limited delays caused by the review process are reasonable.

Section 842.11(b)(1)(iii)(C) is identical to that proposed, except for editorial revisions and one change made in response to comments. Those comments were from a group of commenters who supported the proposed provision, but asked that the permittee be sent a copy of the decision by the deputy director, much as a copy of the ten-day notice to the state must be sent to the permittee.

OSMRE agrees with this comment, and has included in the final rule a provision that the permittee will be furnished with a copy of the deputy director's decision. Such an allowance is in keeping with 30 CFR 843.12(a)(2), which provides that the permittee be given copies of the ten-day notice itself. Providing a copy of the decision reached in the informal review will tend to increase communication among the parties.

One commenter expressed concern that the informal review process established in the proposed rule did not specify the basis on which the deputy director will affirm, reverse, or modify the written determination of the authorized representative. That basis, however, is provided by the rule now being promulgated—namely, whether the state action was arbitrary, capricious, or an abuse of discretion under the state program.

C. Part 843—Federal Enforcement

The final rule amends § 843.12(a)(2) to make OSMRE's actions under that section subject to the informal review process established in § 842.11(b)(1)(iii). Thus OSMRE will not reinspect or issue an NOV under that section during the pendency of the review process.

The final rule adopts the language as it was proposed for § 843.12(a)(2), with one conforming change. In the final clause of the first sentence of § 843.12(a)(2), OSMRE has deleted the word "enforcement." This was necessary to make section 843 conform with § 842.11. Thus, the final rule provides that the authorized representative shall give a ten-day notice to the state and to the permittee so that appropriate action can be taken by the state. Appropriate action is defined in § 842.11(b)(1)(ii)(B)(3).

Comments on proposed § 843.12(a)(2) fell into two general categories. In the first category, a number of commenters stated that the Act does not authorize federal NOVs in primacy states at all. They argued that Congress established exclusive regulatory jurisdiction for states that obtain approval of their regulatory programs—not concurrent jurisdiction in the states and the federal government. Therefore, they claim, any reference to allowing federal NOVs in primacy states should be deleted.

OSMRE clearly stated in the preamble to the proposed rule that although it was proposing to amend a portion of § 843.12(a)(2), it was not reopening the issue of its authority to issue NOVs in primacy States. Therefore, the request is beyond the scope of this rulemaking.

In the second category of comments on the section, several commenters recommended that both the final rule and preamble reflect that compliance is measured against the state program, rather than the Act, because they say the the Act imposes no duties or obligations upon operators directly. The commenters therefore asked that the word "Act" be deleted in the two places that it appears in proposed 30 CFR 843.12(a)(2).

OSMRE agrees that an operator's compliance is measured against the state program and that notices of violation should be based upon violations of the state program. That is not the context, however, in which the word "Act" is used in § 843.12(a)(2).

The word "Act" appears in § 843.12(a)(2) as one basis for OSMRE giving a written report to the state and the permittee following a federal oversight inspection in a primacy state. In part the section implements section 517(e) of the Act which specifies that each inspector, upon detection of each violation of any requirement of any state program *or* of the Act must inform the operator in writing and report the violation in writing to the regulatory authority. In addition, section 521(a)(1) of the Act clearly states that ten-day notices are to be issued for possible violations of any requirement of the Act. That is consistent with the purpose of ten-day notices—to be a communication device between OSMRE and the states.

If a state program does not contain a requirement of the Act that it is supposed to contain, the violation of the requirement of the Act results from the state program deficiency and not the conduct of an operator performing in accordance with the state program. In such circumstances, notification to a state that a requirement of the Act is being violated will allow the state program to be amended to include the requirement of the Act.

In addition, the suggestion to delete the word "Act" was not part of the proposed rulemaking, and is beyond the scope of this rulemaking. For all of these reasons, the word "Act" in 30 CFR 843.12 (a)(2) will not be deleted.

The commenters should not be concerned that federal NOVs will be issued in primacy states under § 843.12(a)(2) for factual situations which do not constitute violations of the state program. Under that section, federal NOVs are required only after states fail to take appropriate action or to show good cause. If a state demonstrates that the facts which are the subject of the ten day notice do not constitute a violation of the state program, good cause will have been shown.

III. Procedural Matters

Executive Order 12291

The Department of the Interior (DOI) has examined the final rule, according to the criteria of Executive Order 12291 (February 17, 1981), and has determined that it is not a major rule within the standards established by the Executive Order. Therefore, no regulatory impact analysis is required.

Federal Paperwork Reduction Act

There are no information collection requirements in the final rule requiring review by the Office of Management and Budget under 44 U.S.C. 3507.

Regulatory Flexibility Act

The Department of the Interior has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the final rule will not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

OSMRE has prepared an environmental assessment (EA) on the impacts on the human environment of this rulemaking. The EA is on file in the OSMRE administrative Record at the address listed in the "Addresses" section of this preamble.

Author

The principal author of this rule is Barbara Geigle, Office of Surface Mining Reclamation and enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202/343-4953 (FTS or Commercial).

List of Subjects

30 CFR Part 842

Law enforcement, Surface mining, Underground mining.

30 CFR Part 843

Administrative practice and procedure, Law enforcement, Reporting and recordkeeping requirements, Surface mining Underground mining.

Accordingly, 30 CFR Parts 842 and 843 are amended as set forth below.

Dated: June 13, 1988.

J. Steven Griles,

Assistant Secretary for Land and Minerals Management.

PART 842—FEDERAL INSPECTIONS AND MONITORING

1. The authority citation of Part 842 is revised to read as follows:

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*; and Pub. L. 100–34.

2. In § 842.11, paragraph (b)(1)(ii)(B) is revised and paragraph (b)(1)(iii) is added to read as follows:

§ 842.11 Federal inspections and monitoring.

* * * * *

(b)(1) * * *

(ii) * * *

(B)(*1*) The authorized representative has notified the state regulatory authority of the possible violation and more than ten days have passed since notification and the State regulatory authority has failed to take appropriate action to cause the violation to be corrected or to show good cause for such failure and to inform the authorized representative of its response. After receiving a response from the State regulatory authority, before inspection, the authorized representative shall determine in writing whether the standards for appropriate action or good cause for such failure have been met. Failure by the State regulatory authority to respond within the ten days shall not prevent the authorized representative from making the determination, and will constitute a waiver of the state regulatory authority's right to request review under paragraph (b)(i)(iii) of this section.

(*2*) For purposes of this subchapter, an action or response by a State regulatory authority that is not arbitrary, capricious, or an abuse of discretion under the state program shall be considered "appropriate action" to cause a violation to be corrected or "good cause" for failure to do so.

(*3*) Appropriate action includes enforcement or other action authorized under the State program to cause the violation to be corrected.

(*4*) Good cause includes: (*i*) Under the State program, the possible violation does not exist; (*ii*) the State regulatory authority requires a reasonable and specified additional time to determine whether a violation of the State program does exist; (*iii*) the State regulatory authority lacks jurisdiction under the State program over the possible violation or operation; (*iv*) the State regulatory authority is precluded by an administrative or judicial order from an administrative body or court of competent jurisdiction from acting on the possible violation, where that order is based on the violation not existing or where the temporary relief standards of section 525(c) or 525(c) of the Act have been met; or (*v*) with regard to abandoned sites as defined in § 840.11(g) of this chapter, the State regulatory authority is diligently pursuing or has exhausted all appropriate enforcement provisions of the State program.

* * * * *

(iii)(A) The authorized representative shall immediately notify the state regulatory authority in writing when in response to a ten-day notice the state regulatory authority fails to take appropriate action to cause a violation to be corrected or to show good cause for such failure. If the State regulatory authority disagrees with the authorized representative's written determination, it may file a request, in writing, for informal review of that written determination by the Deputy Director. Such a request for informal review may be submitted to the appropriate OSMRE field office or to the office of the Deputy Director in Washington, DC. The request must be received by OSMRE within 5 days from receipt of OSMRE's written determination.

(B) Unless a cessation order is required under § 843.11, or unless the state regulatory authority has failed to respond to the ten-day notice, no Federal inspection action shall be taken or notice of violation issued regarding the ten-day notice until the time to request informal review as provided in § 842.11(b)(1)(iii)(A) has expired or, if informal review has been requested, until the Deputy Director has completed such review.

(C) After reviewing the written determination of the authorized representative and the request for informal review submitted by the State regulatory authority, the Deputy Director shall, within 15 days, render a decision on the request for informal review. He shall affirm, reverse, or modify the written determination of the authorized representative. Should the Deputy Director decide that the State regulatory authority did not take appropriate action or show good cause, he shall immediately order a Federal inspection or reinspection. The Deputy Director shall provide to the State regulatory authority and to the permittee a written explanation of his decision, and if the ten-day notice resulted from a request for a Federal inspection under § 842.12 of this Part, he shall send written notification of his decision to the person who made the request.

* * * * *

PART 843—FEDERAL ENFORCEMENT

3. The authority citation for Part 843 is revised to read as follows:

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*; and Pub. L. 100–34.

4. Section 843.12(a)(2) is revised to read as follows:

§ 843.12 Notices of violation.

(a) * * *

(2) When, on the basis of any Federal inspection other than one described in paragraph (a)(1) of this section, an authorized representative of the Secretary determines that there exists a violation of the Act, the State program, or any condition of a permit or exploration approval required by the Act which does not create an imminent danger or harm for which a cessation order must be issued under § 843.11, the authorized representative shall give a written report of the violation to the State and to the permittee so that appropriate action can be taken by the State. Where the State fails within ten days after notification to take appropriate action to cause the violation to be corrected, or to show good cause for such failure, subject to the procedures of § 842.11(b)(1)(iii) of this chapter, the authorized representative shall reinspect and, if the violation continues to exist, shall issue a notice of violation or cessation order, as appropriate. No additional notification to the State by the Office is required before the issuance of a notice of violation if previous notification was given under § 842.11(b)(1)(ii)(B) of this chapter.

* * * * *

[FR Doc. 88–15670 Filed 7–13–88; 8:45 am]

BILLING CODE 4310–05–M

federal register

Thursday
July 14, 1988

Part IV

Federal Emergency Management Agency

44 CFR Part 300

Disaster Preparedness Assistance; Grants; Proposed Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 300

Disaster Preparedness Assistance; Grants

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: This part prescribes requirements for the implementation of section 201 of the Disaster Relief Act Amendments of 1974, (the Act). Section 201 establishes a mechanism for providing Federal technical assistance to States, local governments and the private sector, and authorizes grants to develop and improve capabilities of State governments to deliver disaster assistance and to prepare for and mitigate hazards to which the grant recipient is exposed. The changes proposed to the existing rule clarify the statuatory intent for the Disaster Preparedness Improvement Grant (DPIG) Program.

DATE: Comments due September 12, 1988.

ADDRESSES: Submit comments to Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Gregory S. Jones, Office of Disaster Assistance Programs, FEMA, Room 714, 500 C Street SW., Washington, DC 20472, Telephone: (202) 646–3668.

SUPPLEMENTARY INFORMATION: Section 201 of the Disaster Relief Act of 1974 ("the Act") authorizes matching grants of up to $25,000 to States for "improving, maintaining, and updating State disaster assistance plans." "Disaster assistance" within the context of the Act includes "programs for both public and private losses sustained in disasters." Additionally, an essential component of "disaster assistance" and "disaster preparedness" as cited at section 101 of the Act, "Findings, Declarations, and Definitions" and section 201 of the Act "Disaster Preparedness Assistance," is hazard mitigation—the systematic approach to reduce vulnerability to losses and thereby serve the fundamental purpose of the legislation "to alleviate the suffering and damage which results from disasters." The delivery of disaster assistance programs including mitigation planning requires the improvement and maintenance of State plans and procedures to (1) identify the tasks needed to deliver disaster assistance and to avoid or mitigate hazards; (2) make clear assignments to specific offices to execute those tasks; (3) reflect the State authorities for executing disaster assignments; and, (4) provide for adequate training of personnel in their disaster assignments.

The disaster preparedness improvement grants are intended to support, improve, and maintain such efforts. The delivery of disaster assistance to individuals and communities and efforts to reduce vulnerability to losses may be considered as the major components of a State disaster assistance program. The limited resources in a given year to improve or maintain such State programs requires judicious application of the grants to meeting the State's highest disaster assistance priorities. It is important for States to take advantage of technical assistance resources available from the appropriate FEMA Regional Director to identify areas of highest concern or needed revision and include those priorities in their statements of work as part of the application process for the disaster preparedness improvement grant.

The changes proposed to the existing rule clarify the statutory intent for the Disaster Preparedness Improvement Grant (DPIG) Program. In summary, the proposed changes are:

1. Add a definition of "State" to clarify the intended recipients of the annual grants (commonly referred to as Disaster Preparedness Improvement Grants or DPIG's);

2. Underscore the flexible use of the DPIG's within the light of State disaster assistance needs and capabilities;

3. Removes Part 300.1 *General,* and Part 300.3 *Federal Disaster Preparedness Program* from the rule because they are not essential and renumber the rule accordingly; and,

4. Add a definition of "mitigation" to further clarify the intended usage of the grants.

The benefits to be derived from the proposed rule will be clarification of the appropriate uses of the DPIG's and the separation of program administration requirements which are in 44 CFR Part 13 from the program management requirements contained herein.

The proposed changes apply only to §§ 300.1 through 300.5. Section 300.6 "Earthquake and Hurricane Plans and Preparedness" is not proposed for change by the present initiative. However, it is redesignated as § 300.4. Any changes to this section will be proposed under separate rulemaking initiatives.

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 United States Code 3501 *et.seq.* and has assigned OMB Control Number 3067–0123. Submit comments on these requirements to the Office of Information and Regulatory Affairs, OMB, 726 Jackson Place NW., Washington, DC. 20503 marked "Attention Desk Officer of FEMA". The final rule will respond to any OMB or public comments on the information collection requirements.

Environmental Considerations

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council of Environmental Quality (40 CFR Parts 1500–1508), FEMA has prepared an environmental assessment for the issuance of proposed regulations implementing section 406 of the Act. This proposed rule is essentially procedural and is intended to clarify and add detail to existing procedures. FEMA has determined, therefore, that there will be no significant impact on the environment caused by issuance of this rule. As a result, an environmental impact statement will not be prepared. Copies of this assessement are available for inspection at: Federal Emergency Management Agency, Room 835, 500 C Street SW., Washington, DC 20472, Telephone (202) 646–4106.

Executive Order 12291, "Federal Regulations"

This rule is not a major rule within the context of Executive Order 12291. It will not have an annual impact on the economy of $100 million or more.

The rule will not have a significant economic impact on small entities, within the meaning of 5 U.S.C. 605 (the Regulatory Flexibility Act). Therefore, no regulatory analysis will be prepared.

Federalism

Consistent with Executive Order 12612, the proposed rule is intended to assist States and local units of government in reducing vulnerability from recurring or potentially severe natural hazards by supporting disaster preparedness and hazard mitigation planning activities.

This program encourages States to develop their own program initiatives within the limits of authorized activity as allowed by the Act. The proposed rule imposes no additional costs or burdens on the States, but rather, has a long-term Federal and State cost-saving potential.

List of Subjects in 44 CFR Part 300

Disaster assistance.

Accordingly, it is proposed to amend 44 CFR Part 300 Chapter I, Subchapter E as follows:

PART 300—[AMENDED]

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

Authority: 42 U.S.C. 5121 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12148.

§§ 300.1 and 300.3 [Removed]

2. Sections 300.1 and 300.3 are removed.

3. Sections 300.2, 300.4, and 300.5 are redesignated as §§ 300.1, 300.2, and 300.3 respectively and revised to read as follows:

§ 300.1 Definitions.

As used in this part:

(a) "The Act" means the Disaster Relief Act of 1974, as amended 42 U.S.C. 5121 *et seq.*

(b) "Disaster assistance plans" means those plans which identify tasks needed to deliver disaster assistance and to avoid or mitigate natural hazards; make assignments to execute those tasks; reflect State authorities for executing disaster assignments; and provide for adequate training of personnel in their disaster or mitigation assignments.

(c) "Mitigation" means the process of systematically evaluating the nature and extent of vulnerability to the effects of natural hazards present in society and planning and carrying out actions to minimize future vulnerability to hazards to the greatest extent practicable.

(d) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Federated States of Micronesia, or the Republic of the Marshall Islands.

§ 300.2 Technical assistance.

Requests for technical assistance under section 201(b) of the Act shall be made by the Governor or his/her designatd representative to the Regional Director.

(a) The request for technical assistance shall indicate as specifically as possible the objectives, nature, and duration of the requested assistance; the recipient agency or organization within the State; the State official responsible for utilizing such assistance; the manner in which such assistance is to be utilized; and any other information needed for a full understanding of the need for such requested assistance.

(b) The request for assistance requires participation by the State in the technical assistance process. As part of its request for such assistance, the State shall agree to facilitate coordination among FEMA, local governments, State agencies and the businesses and industries in need of assistance in the areas of disaster preparedness and mitigation.

§ 300.3 Financial assistance.

(a) The Regional Director may provide to States upon written request by the State Governor or an authorized representative, an annual improvement grant up to $25,000, but not to exceed 50 percent of eligible costs, except where separate legislation requires or permits a waiver of the State's matching share, e.g., with respect to "insular areas", as that term is defined at 48 U.S.C. 1469a(d). The non-Federal share in all cases may exceed the Federal share.

(b) The improvement grant shall be product-oriented; that is, it must produce something measurable in a way that determines specific results, to substantiate compliance with the grant workplan objectives and to evidence contribution to the State's disaster capability. The following list, which is neither exhaustive nor ranked in priority order, offers examples of eligible products under the Disaster Preparedness Improvement Grant Program:

(1) Hazard mitigation activities, including development of predisaster hazard mitigation plans, policies, programs and strategies for State-level multi-hazard mitigation;

(2) Updates to State disaster assistance plans, including plans for the Individual and Family Grant (IFG) Program, Disaster Application Center operations, damage assessment etc.;

(3) Handbooks to implement State disaster assistance program activities;

(4) Exercise materials (EXPLAN, scenario, injects, etc.) to test and exercise procedures for State efforts in disaster response, including provision of individual and public assistance;

(5) Standard operating procedures for individual State agencies to execute disaster responsibilities for IFG, crisis counseling, mass care or other functional responsibilities;

(6) Training for State employees in their responsibilities under the State's disaster assistance plan;

(7) Report or formal analysis of State enabling legislation and other authorities to ensure efficient processing by the State of applications by governmental entities and individuals for Federal disaster relief;

(8) An inventory or updated inventory of State/local critical facilities (including State/local emergency operations centers) and their proximity to identified hazard areas;

(9) A tracking system of critical actions (identified in postdisaster critiques) to be executed by State or local governments to improve disaster assistance capabilities or reduce vulnerability to hazards;

(10) Plans or procedures for dealing with disasters not receiving supplementary Federal assistance;

(11) Damage assessment plans or procedures;

(12) Procedures for search and rescue operations; and

(13) Disaster accounting procedures.

(c) The State shall provide quarterly financial and performance reports to the Regional Director. Reporting shall be by program quarter unless otherwise agreed to by the Regional Director.

§ 300.6 [Redisignated as § 300.4]

4. Section 300.6 is redesignated as § 300.4.

Date: July 7, 1988.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 88-15623 Filed 7-13-88; 8:45 am]

BILLING CODE 6718-02-M

Federal Register

Thursday
July 14, 1988

Part V

The President

Executive Order 12645—Amending Executive Order 12364, Relating to the Presidential Management Intern Program

Federal Register
Vol. 53, No. 135
Thursday, July 14, 1988

Presidential Documents

Title 3—

The President

Executive Order 12645 of July 12, 1988

Amending Executive Order 12364, Relating to the Presidential Management Intern Program

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, and in order to improve the Presidential Management Intern Program by providing for the recruitment and selection of an increasing number of outstanding employees for careers in public sector management, it is hereby ordered that Section 3(c)(1) of Executive Order No. 12364 of May 24, 1982, is amended by deleting "two hundred" and inserting in lieu thereof "four hundred".

Ronald Reagan

THE WHITE HOUSE,
July 12, 1988.

[FR Doc. 88-16054
Filed 7-13-88; 11:33 am]
Billing code 3195-01-M

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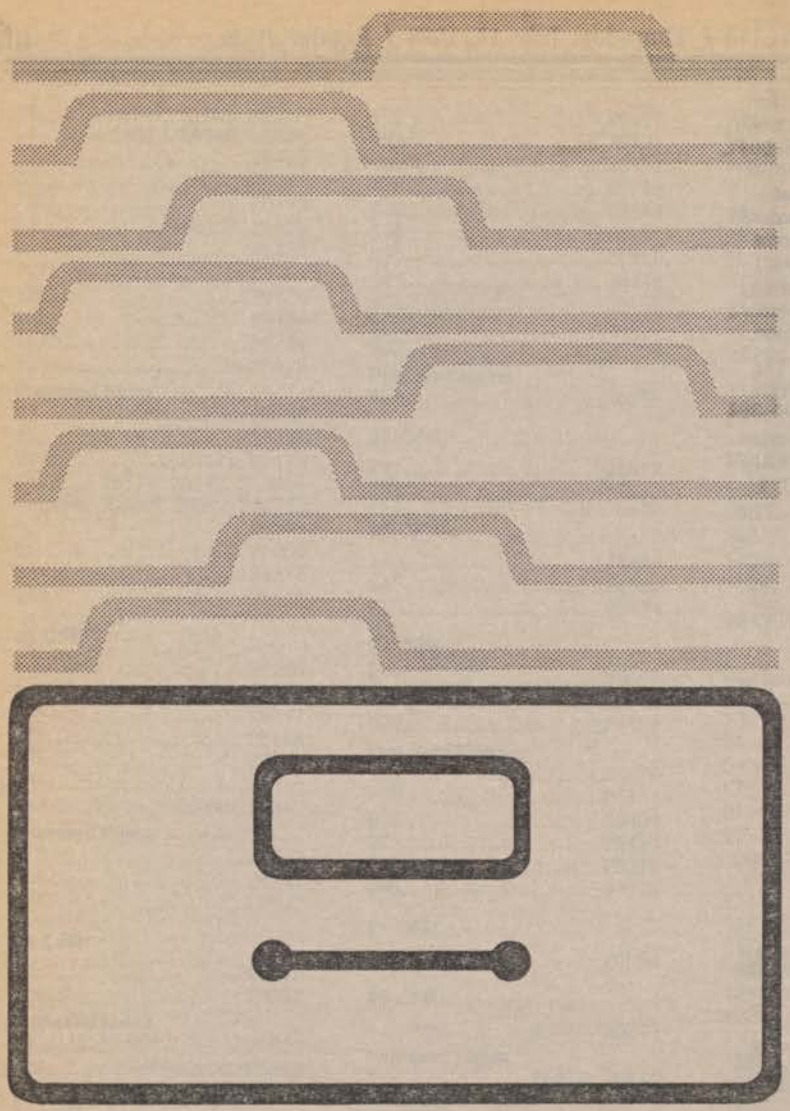
H.R. 4731 / Pub. L. 100-364

WIN Demonstration Program Extension Act of 1988. (July 11, 1988; 102 Stat. 822; 1 page) Price: $1.00



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in the Code of Federal Regulations (CFR)

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SUPPLEMENT: Revised January 1, 1988

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