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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 917

Expenses and Assessment Rate for Marketing Order Covering Fresh Pears, Plums, and Peaches Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule concerning fresh pears, plums, and peaches grown in California authorizes expenditures and establishes an assessment rate for the Pear Commodity Committee established under Marketing Order 917 for the 1988–89 fiscal year. The rule is needed for the Pear Commodity Committee to incur operating expenses during the 1988–89 fiscal year and to collect funds during that year to pay those expenses. This will facilitate program operations. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: March 1, 1988, through February 28, 1989 [§ 917.252].

FOR FURTHER INFORMATION CONTACT: Jerry N. Brown, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone: (202) 475–5464.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 917 [7 CFR Part 917] regulating the handling of fresh pears, plums, and peaches grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

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

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

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 43 handlers of California pears under this marketing order, and approximately 2,800 pear, plum, and peach producers in California. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

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

The assessment rate recommended by each committee is derived by dividing anticipated expenses by expected shipments of the commodity (i.e., pounds, tons, boxes, cartons, etc.). Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committee before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committee will have funds to pay their expenses.

The Pear Commodity Committee met June 21, 1988, and unanimously recommended 1988–89 fiscal year expenditures of $825,793 and an assessment rate of $0.22 per carton (No. 29B special lug box) of assessable pears shipped under M.O. 917. In comparison, 1987–88 fiscal year budgeted expenditures were $910,111 and the assessment rate was $0.20 per carton.

The major expenditure item this year is $675,000 for advertising and promotion compared to $713,800 in 1987–88. The remaining expenses, which are primarily for program administration, are budgeted at about last year's amounts. Total income for 1988–89 is expected to amount to $801,260, including assessment income of $766,260 based on shipments of 3,483,000 cartons of fresh pears, $20,000 from the California Department of Food and Agriculture, and $15,000 from other sources such as interest earned on the reserve fund. The reserve fund of $183,352 is well within the maximum authorized under the program and will be sufficient to cover the anticipated deficit.

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

A proposed rule regarding this action was issued on July 12, 1988, and published in the **Federal Register** [53 FR 26783, July 15, 1988]. That document provided that interested persons could file comments through July 25, 1988. No comments were received.

Based on the foregoing, it is found that the specified expenses are reasonable and likely to be incurred, and that such

expenses, assessment rates, and operating reserves will tend to effectuate the declared policy of the Act.

Approval of the expenses, assessment rate, and operating reserve for the pear program should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. In addition, handlers are aware of this action which was recommended by the committee at public meeting. Therefore, the Secretary also finds that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register [5 U.S.C. 553].

List of Subjects in 7 CFR Part 917

Marketing agreements and orders, pears, plums, peaches, California.

For the reasons set forth in the preamble, new § 917.252 is added as follows:

1. The authority citation for 7 CFR Part 917 continues to read as follows:

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

2. New § 917.252, is added to read as follows:

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

§ 917.252 Expenses and assessment rate.

Expenses of $825,793 by the Pear Commodity Committee are authorized, and an assessment rate of $0.22 per No. 29B special lug box of assessable pears is established, for the fiscal year ending February 28, 1989. Unexpended funds may be carried over as a reserve.

Dated: August 3, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88–17916 Filed 8–8–88; 8:45 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Size Standard for Commodity Contracts Brokers and Dealers

AGENCY: Small Business Administration (SBA).

ACTION: Emergency interim final rule.

SUMMARY: The SBA is establishing, on an emergency interim basis, a size standard of $3.5 million in average annual receipts for the Commodity Contracts Brokers and Dealers industry, Standard Industrial Classification (SIC) code 6221, for which no size standard exists at present. SBA intends to extend, as a residual size standard, the $3.5 million standard to 53 other industries without size standards. However, these will be issued as a proposed rule with opportunity for public comment. While requests for SBA's assistance from companies in SIC code 6221 are infrequent, they occasionally occur. Size standards are needed to establish eligibility for SBA's financial assistance and other programs in all industries.

DATE: Effective August 9, 1988. Comments to be submitted on or before September 8, 1988

ADDRESS: Address comments to: Gary M. Jackson, Director, Size Standards Staff, U.S. Small Business Administration, 1441 'L' Street, NW., Room 601, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Alan Odendahl, Economist, Size Standards Staff, (202) 653–6373.

SUPPLEMENTARY INFORMATION: An application for SBA's financial assistance has recently been submitted to the SBA's Denver District Office by a firm in the Commodity Contracts Brokers and Dealers (SIC code 6221) industry. At least one additional application by another firm in the same industry is pending and may be submitted very soon. This industry is among the 54 four-digit Standard Industrial Classification (SIC) industries for which SBA does not have any established size standards. SBA's policy is to have a size standard for every industry. Size standards were not established previously for these industries because SBA was not expected to receive requests for assistance from firms in these industries. Also, limited data on the structure of many of the 54 uncovered industries delayed the establishment of size standards.

Since there is an urgent need to set eligibility requirements for a financial assistance request, a residual size standard of $3.5 million in average annual receipts is established on an emergency interim basis for SIC code 6221, Commodity Contracts Brokers and Dealers. This is the same standard that is used as the residual standard for all industries not specifically listed under SIC Division I—Services.

This size standard is being established as an interim emergency final rule under Sections 3 and 5(b) of the Small Business Act, 15 U.S.C. 632 and 634(b) and SBA's implementing regulation § 121.10(b) Title 13 CFR. This legal authority allows SBA to set emergency interim size standards if no size standard exists for the industry in question. At the same time, SBA solicits and welcomes comments on the suitability of making the $3.5 million size standard permanent.

As indicated above, little data are available on many of the 54 industries without size standards, partly because they are not included in the economic censuses published by the U.S. Bureau of the Census. Data are also sometimes contradictory on the size structure and even on the number of firms in these industries. In the current case, a preliminary survey of SIC code 6221, Commodity Contracts Brokers and Dealers, revealed a general lack of data on the size structure of firms in the industry, and contradictory information on the basic parameters of industry characteristics.

Data sources which were consulted included SBA's own data base maintained by its Office of Advocacy, the "Market Potential Report" published by Economic Information Systems, Inc. (now Trinet, Inc.), the annual report of the Commodity Futures Trading Commission, the National Futures Association, the Chicago Board of Trade Clearing Association, and American Business Lists, Inc.

There was no consistency or agreement among these sources on the number of firms in the industry, and little information on the distribution of firms by size, whether measured by employment or annual receipts. As indicated above the U.S. Bureau of the Census does not cover the Commodity Contracts, Brokers and Dealers industry.

In this situation, it is judged appropriate to apply the "anchor standard" of $3.5 million to the uncovered industry, rather than to adopt some other size standard weakly supported by available evidence. (In 1985, the SBA's Size Policy Board adopted the two anchor standards to serve as reference points from which to begin considerations of a specific standard. For receipt-based size standards, $3.5 million is the anchor and for employee-based size standards, 500 employees was adopted.) The dollar-based size standard originated a short time after the inception of the Agency. At that time, size standards of $300,000 to $1,000,000 were established for the retail trade and service industries. In 1963, a single standard of $1,000,000 was established for both industries. Inflationary adjustments to this figure eventually led to the $3.5 million standard in effect today for most retail trade and service industries.

In addition, the size standard is consistent with the $3.5 million already

in use for the residual size standard for all industries not specifically listed in SIC Division I—Services (49 FR 39996, October 12, 1984; 50 FR 10495, March 15, 1985). The other anchor size standard recognized by the Agency is 500 employees. Employee-based standards apply generally to the manufacturing industries. Thus the 500 employee standard is an unsuitable alternative standard for SIC code 6221.

SBA intends to extend the $3.5 million size standard to the other 53 uncovered industries as a residual size standard. In order to afford the public full opportunity for comments on the suitability of this standard, it will be published as a Proposed Rule, rather than on an emergency interim basis. It is recognized that this standard may prove to be too high or too low for one or more of the remaining 53 industries now without a size standard.

Comments are also invited on the application of the $3.5 million standard to SIC code 6221, Commodity Contracts Brokers, and Dealers. Data on the size structure of this industry, or sources of such data, are particularly welcome.

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

SBA certifies that this emergency interim final rule is not a major rule within the meaning of Executive Order 12291. This residual size standard is established to facilitate the processing of SBA's financial assistance for specific individual loan guarantees and for procurement assistance programs. Based on requests received to date, SBA anticipates the need for this industry size standard one to two times per year. Consequently, this rule is not likely to have an annual economic impact exceeding $100 million. Similarly, this regulation is not likely to result in a major increase in costs or prices or have a significant adverse effect on the United States economy.

The SBA certifies, pursuant to section 608 of the Regulatory Flexibility Act, 5 U.S.C. 608, that this interim final rule is being published pursuant to an emergency for the reason indicated above and the SBA is, therefore, waiving the requirements of section 503 of the Regulatory Flexibility Act. The SBA will publish final regulatory analysis when this rule is promulgated in final form, after the expiration of the comment period. This rule poses no new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

List of Subjects in 14 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Loan programs—business, Recording and recordkeeping requirements, Small business.

PART 121—[AMENDED]

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

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

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

§ 121.2 [Amended]

2. Section 121.2(d)(2), Table 2, is amended by adding Major Group 62 to "Division H—Finance, Insurance, and Real Estate" after Major Group 60 as follows:

MAJOR GROUP 62—SECURITY AND COMMODITY BROKERS, DEALERS, EXCHANGES, AND SERVICES

SIC	Description	Emergency interim final rule
6221	Commodity Contracts Brokers and Dealers.	$3.5

Dated: July 7, 1988.

James Abdnor,

Administrator, U.S. Small Business Administration.

[FR Doc. 88-17710 Filed 8-8-88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-CE-11-AD; Amendment 39-5994]

Airworthiness Directives; MORAVAN Model ZLIN 526L Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to MORAVAN Model ZLIN 526L airplanes, which requires repetitive inspections of certain fuselage welds for cracks. There have been reports of cracks being found near the leveling points in this tubular structure. This AD will assure early detection of these cracks precluding a structural failure and possible loss of the airplane.

EFFECTIVE DATE: September 8, 1988.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Mandatory Service Bulletin (MSB) Z526/62, dated July 30, 1987, applicable to this AD may be obtained from MORAVAN National Corp., 765-81 Otrokovice, Czechoslovakia. This information may also be examined at the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. M. Dearing, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone (322) 513.38.30; or Mr. H. Belderok, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring repetitive visual inspections for cracks using a 3-power magnifying glass of the tubular structure around the airplane's leveling points at the forward end of the cockpit area on certain MORAVAN Model ZLIN 526L airplanes was published in the **Federal Register** on May 31, 1988 (53 FR 19801). The proposal resulted from at least two reports of cracks being found in certain tubular portions of the airframe at the leveling points located at the forward end of the cockpit area on MORAVAN Model ZLIN 526L airplanes. These cracks are believed to be caused by loads during aerobatic maneuvers. Cracks in the fuselage tubular structure may cause failure of this structure and possible catastrophic loss of the airplane. Consequently, MORAVAN National Corp. issued MSB Z526/62, dated July 30, 1987, which requires repetitive visual inspections for cracks using a 3-power magnifying glass of the tubular structure around the airplane's leveling points at the forward end of the cockpit area. If a crack is found, before further flight a repair scheme must be obtained from MORAVAN

The State Aviation Inspection (SAI), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Czechoslovakia, classified this Service Bulletin (S/B) Z526/62, dated July 30, 1987, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

On airplanes operated under Czechoslovakian registration, this action

has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the SAI combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA examined the available information related to the issuance of MORAVAN MSB Z526/62, dated July 30, 1987, and the mandatory classification of this Service Bulletin by the SAI, and concluded that the condition addressed by MSB Z526/62 was an unsafe condition that may exist on other airplanes of this type certificated for operation in the United States. Accordingly, the FAA proposed as amendment to Part 39 of the FAR to include an AD on this subject.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public.

The FAA has determined there are currently no airplanes of U.S. Registry affected by the proposed AD. The cost of inspecting the tubular structure in the vicinity of the leveling points at the forward end of the cockpit area required by the proposed AD is estimated to be $320 (8 hours at $40 per hour) per airplane. The total cost is estimated to be nil to the private sector.

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

Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

MORAVAN: Applies to Model ZLIN 526L (all serial numbers) airplanes certificated in any category.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD and every 100 hours TIS thereafter, unless already accomplished.

To preclude structural airframe failure, accomplish the following:

(a) Visually inspect, using a 3-power magnifying glass, the forward portion of the cabin area tubular structure around the airplane leveling points, for cracks using supplementary lighting as required in accordance with MORAVAN Mandatory Service Bulletin Z526L, dated July 30, 1987. If a crack is found, before further flight repair the crack in accordance with instructions from MORAVAN approved by the Manager, Aircraft Certification Staff, AEU–100.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B–1000 Brussels, Belgium.

All person affected by this directive may obtain copies of the document referred to herein upon request to Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B–1000 Brussels, Belgium; or MORAVAN National Corp. 765–81 Otrokovice, Czechoslovakia; or may examine this document at the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on September 8, 1988.

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

M.C. Beard,

Director, Office of Airworthiness.

[FR Doc. 88–17871 Filed 8–8–88; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Reg. No. 4]

Determining Disability and Blindness; Extension of Expiration Date for Mental Disorders Listings

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: The mental disorders listings in 12.00 of Part A of the Listing of Impairments in Appendix 1 of Subpart P of Part 404 will expire on August 27, 1988. These amendments extend the expiration date of the mental disorders listings through August 27, 1990. We have made no revisions in the medical criteria in these mental disorders listings; they remain the same as they now appear in the Code of Federal Regulations. Thus, under these amendments the Social Security Administration (SSA) will continue to use the medical criteria in these listings for an additional 2 years.

DATE: These rules are effective August 9, 1988.

FOR FURTHER INFORMATION CONTACT: William J. Ziegler, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, telephone 301–965–1959.

SUPPLEMENTARY INFORMATION: Regulations issued on August 28, 1985, containing the adult mental disorders listings, included a 3 year "sunset provision" which provided that the listings would expire on August 27, 1988, unless extended by the Secretary of Health and Human Services (the Secretary) or revised and promulgated again. The preamble to the final rule published in the **Federal Register** (50 FR 35038) on August 28, 1985, explained the reason for the sunset provision in the listings in the following manner:

We are publishing final regulations to be effective for 3 years. The dynamic nature of the diagnosis, evaluation and treatment of the mental disease process requires that the rules in this area be periodically revised and updated. We intend to carefully monitor these regulations over a 3-year period to ensure that they fulfill congressional intent by providing for ongoing evaluation of the medical evaluation criteria. Therefore, 3 years after publication of final rules, these

regulations will cease to be effective unless extended by the Secretary or revised and promulgated again as a result of the findings from the evaluation period.

Although we have been monitoring the implementation of these listings, we have not yet completed a full review of the listings. The results from two major projects, and information from our quality review program and operating experience must still be evaluated. When we have all of this information available, we will be able to determine if we need to revise the criteria and, if so, the nature of the revisions. The major projects are a contract between SSA and the American Psychiatric Association (APA) and a grant to Dr. Robert Liberman of the University of California at Los Angeles.

The contract entered into between SSA and the APA provided for review of both the validity and reliability of the disability evaluation criteria. This contract was described in the preamble to the final mental disorders listings regulations at 50 FR 35038. The APA submitted its report in November 1987 and we are now considering the recommendations it contains.

The grant, No. 10–P–98193, is a research project which is addressing the relationship of psychiatric symptoms and the functional capacity for work. The final report on this project is due March 1989. Before we can determine what, if any, revisions to propose in the listings for mental disorders, we need to review carefully the report we have received from the APA, the report we will be receiving from Dr. Liberman, and our own assessment of the listings.

In order to complete a full review of all of the data we expect to have, we have decided not to propose any revisions to the current adult mental disorders listings at this time. Rather, we are extending the current listings for a period of 24 months from the present expiration date, through August 27, 1990. We believe that this additional time will enable us to incorporate the results of the independent projects we have undertaken with our own evaluation of the mental disorders criteria and will enable us to determine what revisions to the listings may be necessary.

Regulatory Procedures

The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The Administrative Procedure Act provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b), good cause exists for waiver of notice of proposed rulemaking and public comment procedures on these regulations since opportunity for public comment is unnecessary. Prior notice and comment are unnecessary, because these regulations involve only the extension of the expiration date of the mental disorders listings, and make no substantive changes to these listings. The current regulations expressly provide that the listings may be extended by the Secretary, as well as revised and promulgated again. Since we are not making any revisions to the current listings, use of public comment procedures is not contemplated by the existing regulations and is unnecessary under the Administrative Procedure Act. If we decide after our full review of the results of the studies now in progress on the mental evaluation criteria that revisions to those criteria are appropriate, we will, of course, propose any such revisions for public comment.

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because these regulations will not increase or decrease program or administrative costs and do not meet any of the other threshold criteria for a major rule. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because such impact is not experienced with current use of these regulations.

Paperwork Reduction Act of 1980

These regulations impose no additional reporting or recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program Nos., 13.802 Social Security Disability Insurance; 13–807, Supplemental Security Income Program)

List of Subjects

20 CFR Part 404

Administrative practive and procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income.

Dated: July 19, 1988.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: July 29, 1988.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

For the reasons set out in the preamble, Part 404, Subpart P, Chapter III of Title 20 Code of Federal Regulations is amended as set forth below.

20 CFR Part 404, Subpart P is amended as follows:

1. The authority citation for Subpart P continues to read as follows:

Authority: Secs. 202, 205 (a), (b), and (d) through (h), 216(i), 221 (a) and (i), 222(c), 223, 225, and 1102 of the Social Security Act; 42 U.S.C. 402, 405 (a), (b), and (d) through (h), 416(i), 421 (a) and (i), 422(c), 423, 425, and 1302; sec. 505(a) of Pub. L. 96–265, 94 Stat. 473; secs. 2(d)(2), 5, 6, and 15 of Pub. L. 98–460, 98 Stat. 1797, 1801, 1802 and 1808.

Appendix I, Subpart P—[Amended]

2. Appendix 1, Subpart P is amended by revising the last sentence of the fifth paragraph of the introductory text to read as follows: The mental disorders listings in Part A will no longer be effective on August 28, 1990, unless extended by the Secretary or revised and promulgated again.

Listings 12.00, Appendix 1, Subpart P [Amended]

3. Listings 12.00 Mental Disorders of Appendix 1, Subpart P, Part A is amended by revising the first paragraph to read as follows: The mental disorders listings in 12.00 of the Listing of Impairments will no longer be effective on August 28, 1990 unless extended by the Secretary or revised and promulgated again.

[FR Doc. 88–17965 Filed 8–8–88; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8218]

Income Tax; Inclusion Amounts for Listed Property Leased After December 31, 1986

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations under section 280F of the Internal Revenue Code relating to inclusion amounts for listed property leased after December 31, 1986. This action is necessary because of changes to the applicable tax law made by the Tax Reform Act of 1986. This document also amends temporary regulations under Code section 280F relating to inclusion amounts for listed property leased after June 18, 1984. These regulations affect persons who lease listed property after June 18, 1984.

The effect of these regulations is to impose an amount to be included in the gross income of certain lessees of listed property.

FOR FURTHER INFORMATION CONTACT: Joel Rutstein of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) (202–566–3297, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations under Code section 280F relating to inclusion amounts for listed property leased after December 31, 1986. This document also amends temporary regulations under Code section 280F relating to inclusion amounts for listed property leased after June 18, 1984. These temporary regulations will remain in effect until superseded by final regulations on this subject.

Explanation of Provisions

Code section 280F limits the amount of depreciation that may be taken for "listed property." "Listed property," as defined in section 280F(d)(4), includes automobiles, other property used for transportation, computers and property of a type generally used for entertainment, recreation or amusement.

Section 280F limits the depreciation allowable for listed property in two ways. First, subsection (a) of section 280F imposes dollar caps on the amount of depreciation allowable for automobiles. Second, subsection (b) of section 280F allows only straight line depreciation for any listed property that is not predominantly used in the taxpayer's trade or business in any tax year.

Subsection (c) of section 280F provides for the application of these limitations with respect to leased property. Pursuant to section 280F(c), the limitations of sections 280F(a) and 280F(b) are not to affect the depreciation deductions of lessors regularly engaged in the business of leasing, but are to reduce lessees' deductions for rentals and other payments under a lease. Section 280F(c) provides that the reduction of lessees' deductions is to be determined under tables prescribed by the Secretary and that such tables shall be prescribed so that the reduction in lessees' deductions is "substantially equivalent" to the limitations imposed by sections 280F(a) and 280F(b).

Existing Leasing Tables

The Internal Revenue Service has prescribed multiple sets of tables under Code section 280F(c). These tables are contained in temporary regulations under Code section 280F and in Revenue Ruling 86–87, 1986–2 C.B. 45. Section 1.280F–5T(d) provides tables for automobiles leased after June 18, 1984, and before April 3, 1985. Section 1.280F–5T(e) provides tables for automobiles leased after April 2, 1985 (and, as to be revised by this document, before January 1, 1987). Section 1.280F–5T(f) provides tables for listed property (other than automobiles) leased after June 18, 1984 (and, as to be revised by this document, before January 1, 1987). Revenue Ruling 86–87 provides tables for automobiles where the lessor passed the investment credit through to the lessee.

In order to achieve reductions in deductions, all of these tables provide for amounts to be included in the income of lessees. These inclusion amounts are intended to approximate the present value of the economic detriment imposed by sections 280F(a) and 280F(b) on similarly situated owners of listed property.

New Leasing Tables

Changes made by the Tax Reform Act of 1986 create a need for new tables to apply to property leased after December 31, 1986. The 1986 Act lowered the dollar caps imposed by section 280F(a) on depreciation for automobiles. The 1986 Act also made various changes in the rules on depreciation, including changes in the recovery periods used in determining depreciation deductions for listed property. In addition, the 1986 Act repealed the investment credit.

The temporary regulations contained in this document provide tables under Code section 280F(c) for listed property for which the taxpayer's lease term begins after December 31, 1986. These new tables are contained in a new § 1.280F–7T. Section 1.280F–5T of the existing regulations continues to apply to listed property for which the taxpayer's lease term begins before January 1, 1987.

Paragraph (a) of new § 1.280F–7T provides a table for determining inclusion amounts for automobiles for which the taxpayer's lease term begins after December 31, 1986. Paragraph (b) of new § 1.280F–7T provides tables for determining inclusion amounts for other listed property for which the taxpayer's lease term begins after December 31, 1986. The inclusion amounts determined under these new tables are intended to approximate the present value of the economic detriment imposed by sections 280F(a) and 280F(b) on similarly situated owners of listed property.

For automobiles for which the taxpayer's lease term begins before January 1, 1987, existing §§ 1.280F–5T(d)(2) and1.280F–5T(e)(6) require an additional inclusion amount to be added to gross income when an automobile is not used predominantly in a qualified business use during a taxable year. The new temporary regulations contained in this document do not provide for a comparable additional inclusion amount for automobiles for which the taxpayer's lease term begins after December 31, 1986. If such an additional inclusion amount is prescribed in the future, it will apply prospectively only.

Change in Application of Existing Leasing Tables for Automobiles

The temporary regulations contained in this document also make a change with respect to the application of the existing leasing tables for automobiles for which the taxpayer's lease term begins before January 1, 1987. Pursuant to amendments made by these new temporary regulations, paragraphs (d)(1) and (e)(1) of § 1.280F–5T no longer require taxpayers to add an inclusion amount to gross income for the last taxable year during which an automobile is leased. However, these paragraphs continue to require inclusion amounts for every other taxable year of a lease. This change does not affect paragraphs (d)(2) and (e)(6) of § 1.280F–5T, which require an additional inclusion amount when an automobile leased before January 1, 1987, is not used predominantly for business.

Taxpayers who have added an inclusion amount to gross income for the last taxable year of a lease pursuant to paragraph (d)(1) or (e)(1) of § 1.280F–5T may file an amended return.

Special Analyses

A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, these temporary regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The Commissioner of Internal Revenue has determined that these temporary regulations are not a major rule as defined in Executive Order 12291 and that therefore a regulatory impact analysis is not required.

Drafting Information

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

List of Subjects in 26 CFR 1.61–1 Through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Adoption of Amendments of the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.280F–7T also issue under 26 U.S.c. 280F(c).

§ 1.280F–1T [Amended]

Par. 2. Section 1.280F–1T is amended as follows:

1. In paragraph (b), the heading in the table that reads "Section 1.280F–5T" is revised to read "Sections 1.280F–5T and 1.280F–7T".

2. Paragraph (c)(1) is amended by adding at the end thereof the following sentence: "Section 1.280F–7T applies to property leased after December 31, 1986, in taxable years ending after that date.".

3. Paragraph (c)(3) is amended by revising the first sentence thereof to read as follows: "Section 1.280F–5T(e) generally applies to passenger automobiles leased after April 2, 1985, and before January 1, 1987, in taxable years ending after April 2, 1985."; paragraph (c)(3) also is amended by adding at the end thereof the following sentence: "Section 1.280F–7T(a) applies to passenger automobiles leased after December 31, 1986, in taxable years ending after that date.".

§ 1.280F–5T [Amended]

Par. 3. Section 1.280F–5T is amended as follows:

1. Paragraph (a) is amended by adding at the end thereof the following sentences: "For rules on determining inclusion amounts with respect to passenger automobiles, see paragraphs (d), (e) and (g) of this section, and see § 1.280F–7T(a). For rules on determining inclusion amounts with respect to other listed property, see paragraphs (f) and (g) of this section, and see § 1.280F–7T(b)."

2. The first sentence of paragraph (d)(1) introductory text is amended by adding immediately after "for each taxable year" the following words: "(except the last taxable year)".

3. The heading of paragraph (e) is revised to read as follows: "*Inclusions in income of lessees of passenger automobiles leased after April 2, 1985, and before January 1, 1987*—".

4. The first sentence of paragraph (e)(1) is revised to read as follows: "For any passenger automobile that is leased after April 2, 1985, and before January 1, 1987, for each taxable year (except the last taxable year) during which the taxpayer leases the automobile, the taxpayer must include in gross income an inclusion amount determined under subparagraphs (2) through (5) of this paragraph (e)."

5. The first setnence of paragraph (e)(6)(i) is amended by adding immediately after "April 2, 1985," the following words: "and before January 1, 1987,".

6. Paragraph (f)(1) is amended by adding the words "an inclusion amount" immediately after the words "must add"; by removing the words "an inclusion amount determined under this paragraph (f)"; and by adding the following sentences at the end of paragraph (f)(1): "This inclusion amount is determined under paragraph (f)(2) of this section for property leased after June 18, 1984, and before January 1, 1987. The inclusion amount is determined under § 1.280F–7T(b) for property leased after December 31, 1986.".

7. Paragraph (f)(2) is revised to read as follows:

"(2) *Inclusion amount for property leased after June 18, 1984, and before January 1, 1987.* The inclusion amount for property leased after June 18, 1984, and before January 1, 1987, is the product of the following amounts:"

8. In the first sentence of paragraph (g) introductory text, the language "section." is removed, and the language "section, or prescribed under § 1.280F–7T(b)." is added in its place.

9. Paragraph (h)(1) is amended by removing "168(j)(6)(B)" and adding in its place "168(i)(3)(A)".

10. Example (5) of paragraph (i) is amended by removing the number "1990" the first time it appears; by adding in its place the number "1989"; and by removing the bottom line of numbers from the chart.

11. Example (6) of paragraph (i) is amended by removing the number "1990" the second time it appears; by adding in its place the number "1989"; and by removing the bottom line of numbers from the chart.

Par. 4. Section 1.280F–7T is added immediately after § 1.280F–6T to read as follows:

§ 1.280F–7T Property leased after December 31, 1986 (temporary).

(a) *Inclusions in income of lessees of passenger automobiles leased after December 31, 1986*—(1) *In general.* If a taxpayer leases a passenger automobile after December 31, 1986, the taxpayer must include in gross income an inclusion amount determined under this paragraph (a), for each taxable year during which the taxpayer leases the automobile. This paragraph (a) applies only to passenger automobiles for which the taxpayer's lease term begins after December 31, 1986. See §§ 1.280F–5T(d) and 1.280F–5T(e) for rules on determining inclusion amounts for passenger automobiles for which the taxpayer's lease term begins before January 1, 1987. See § 1.280F–5T(h)(2) for the definition of fair market value.

(2) *Inclusion Amount.* For any passenger automobile leased after December 31, 1986, the inclusion amount for each taxable year during which the automobile is leased is determined as follows:

(i) For the appropriate range of fair market values in the table in paragraph (a)(2)(iv) of this section, select the dollar amount from the column for the taxable year in which the automobile is used under the lease (but for the *last* taxable year during any lease that does not begin and end in the same taxable year, use the dollar amount for the *preceding* year);

(ii) Prorate the dollar amount for the number of days of the lease term included in the taxable year; and

(iii) Multiply the prorated dollar amount by the business/investment use (as defined in § 1.280F–6T(d)(3)(i)) for the taxable year.

(iv) Dollar Amounts:

Fair market value of automobile: Over	Not over	Taxable year during lease: 1st	2nd	3rd	4th	5 and later
$12,800	$13,100	$2	$5	$7	$8	$9
13,100	13,400	6	14	20	24	28
13,400	13,700	10	23	34	41	47
13,700	14,000	15	32	47	57	65
14,000	14,300	19	41	61	73	84
14,300	14,600	23	50	74	89	103
14,600	14,900	27	59	88	105	122
14,900	15,200	31	68	101	122	140
15,200	15,500	35	77	115	138	159
15,500	15,800	40	87	128	154	178
15,800	16,100	44	96	142	170	196
16,100	16,400	48	105	155	186	215
16,400	16,700	52	114	169	203	234
16,700	17,000	56	123	182	219	253
17,000	17,500	62	135	200	240	277
17,500	18,000	69	150	223	267	309
18,000	18,500	76	166	246	294	340
18,500	19,000	83	181	268	321	371
19,000	19,500	90	196	291	348	402
19,500	20,000	97	211	313	375	433
20,000	20,500	104	226	336	402	465
20,500	21,000	111	242	358	429	496
21,000	21,500	117	257	381	456	527
21,500	22,000	124	272	403	483	558
22,000	23,000	135	295	437	524	605
23,000	24,000	149	325	482	578	667
24,000	25,000	163	356	527	632	729
25,000	26,000	177	386	572	686	792
26,000	27,000	190	416	617	740	854
27,000	28,000	204	447	662	794	917
28,000	29,000	218	477	707	848	979
29,000	30,000	232	507	752	902	1,041
30,000	31,000	246	538	797	956	1,104
31,000	32,000	260	568	842	1,010	1,166
32,000	33,000	274	599	887	1,064	1,228
33,000	34,000	288	629	933	1,118	1,291
34,000	35,000	302	659	978	1,172	1,353
35,000	36,000	316	690	1,023	1,226	1,415
36,000	37,000	329	720	1,068	1,280	1,478
37,000	38,000	343	751	1,113	1,334	1,540
38,000	39,000	357	781	1,158	1,388	1,602
39,000	40,000	371	811	1,203	1,442	1,665
40,000	41,000	385	842	1,248	1,496	1,727
41,000	42,000	399	872	1,293	1,550	1,789
42,000	43,000	413	902	1,338	1,604	1,852
43,000	44,000	427	933	1,383	1,658	1,914
44,000	45,000	441	963	1,428	1,712	1,976
45,000	46,000	455	994	1,473	1,766	2,039
46,000	47,000	468	1,024	1,518	1,820	2,101
47,000	48,000	482	1,054	1,563	1,874	2,164
48,000	49,000	496	1,085	1,608	1,928	2,226
49,000	50,000	510	1,115	1,653	1,982	2,288
50,000	51,000	524	1,146	1,698	2,036	2,351
51,000	52,000	538	1,176	1,743	2,090	2,413
52,000	53,000	552	1,206	1,788	2,144	2,475
53,000	54,000	566	1,237	1,834	2,198	2,538
54,000	55,000	580	1,267	1,879	2,252	2,600
55,000	56,000	594	1,297	1,924	2,306	2,662
56,000	57,000	607	1,328	1,969	2,360	2,725
57,000	58,000	621	1,358	2,014	2,414	2,787
58,000	59,000	635	1,389	2,059	2,468	2,849
59,000	60,000	649	1,419	2,104	2,522	2,912
60,000	62,000	670	1,465	2,171	2,603	3,005
62,000	64,000	698	1,525	2,262	2,711	3,130
64,000	66,000	726	1,586	2,352	2,819	3,255
66,000	68,000	753	1,647	2,442	2,927	3,379
68,000	70,000	781	1,708	2,532	3,035	3,504
70,000	72,000	809	1,768	2,622	3,143	3,629
72,000	74,000	837	1,829	2,712	3,251	3,753
74,000	76,000	865	1,890	2,802	3,359	3,878
76,000	78,000	892	1,951	2,892	3,468	4,003
78,000	80,000	920	2,012	2,982	3,576	4,128
80,000	85,000	969	2,118	3,140	3,765	4,346
85,000	90,000	1,038	2,270	3,365	4,035	4,658
90,000	95,000	1,108	2,422	3,590	4,305	4,969
95,000	100,000	1,177	2,574	3,816	4,575	5,281
100,000	110,000	1,262	2,802	4,154	4,980	5,749
110,000	120,000	1,421	3,105	4,604	5,520	6,372
120,000	130,000	1,560	3,409	5,055	6,060	6,996

	Taxable year during lease				
	1st	2nd	3rd	4th	5 and later
130,000 .. 140,000	1,699	3,713	5,505	6,600	7,619
140,000 .. 150,000	1,838	4,017	5,956	7,140	8,243
150,000 .. 160,000	1,977	4,321	6,406	7,680	8,866
160,000 .. 170,000	2,116	4,625	6,857	8,221	9,490
170,000 .. 180,000	2,255	4,929	7,307	8,761	10,113
180,000 .. 190,000	2,394	5,232	7,758	9,301	10,737
190,000 .. 200,000	2,533	5,536	8,208	9,841	11,360

(e) *Example.* The following example illustrates the application of this paragraph (a):

Example. On April 1, 1987, A, a calendar year taxpayer, leases and places in service a passenger automobile with a fair market value of $31,500. The lease is to be for a period of three years. During taxable years 1987 and 1988, A uses the automobile exclusively in a trade or business. During 1989 and 1990, A's business/investment use is 45 percent. The appropriate dollar amounts from the table in paragraph (a)(2)(iv) of this section are $260 for 1987 (first taxable year during the lease), $568 for 1988 (second taxable year during the lease), $842 for 1989 (third taxable year during the lease), and $842 for 1990. Since 1990 is the last taxable year during the lease, the dollar amount for the preceding year (the third year) is used, rather than the dollar amount for the fourth year. For taxable years 1987 through 1990, A's inclusion amounts are determined as follows:

Tax year	Dollar amount	Proration	Business use (percent)	Inclusion amount
1987	$260	275/365	100	$196
1988	568	366/366	100	568
1989	842	365/365	45	379
1990	842	90/365	45	93

(b) *Inclusions in income of lessees of listed property (other than passenger automobiles) leased after December 31, 1986*—(1) *In general.* If listed property other than a passenger automobile is not used predominantly in a qualified business use in any taxable year in which such property is leased, the lessee must add an inclusion amount to gross income in the first taxable year in which such property is not so predominantly used (and only in that year). This year is the first taxable year in which the business use percentage (as defined in § 1.280F–6T(d)(1)) of the property is 50 percent or less. This inclusion amount is determined under this paragraph (b) for property for which the taxpayer's lease term begins after December 31, 1986 (and under § 1.280F–5T(f) for property for which the taxpayer's lease term begins before January 1, 1987). See also § 1.280F–5T(g).

(2) *Inclusion amount.* The inclusion amount for any listed property (other than a passenger automobile) leased after December 31, 1986, is the sum of the amounts determined under subdivisions (i) and (ii) of this subparagraph (2).

(i) The amount determined under this subdivision (i) is the product of the following amounts:

(A) The fair market value (as defined in § 1.280F–5T(h)(2)) of the property,

(B) The business/investment use (as defined in § 1.280F–6T(d)(3)(i)) for the first taxable year in which the business use percentage (as defined in § 1.280F–6T(d)(1)) is 50 percent or less, and

(C) The applicable percentage from the following table:

Type of property	First taxable year during lease in which business use percentage is 50% or less											
	1	2	3	4	5	6	7	8	9	10	11	12 and Later
Property with a recovery period of less than 7 years under the alternative depreciation system (such as computers, trucks and airplanes)	2.1	−7.2	−19.8	−20.1	−12.4	−12.4	−12.4	−12.4	−12.4	−12.4	−12.4	−12.4
Property with a 7- to 10-year recovery period under the alternative depreciation system (such as recreation property)	3.9	−3.8	−17.7	−25.1	−27.8	−27.2	−27.1	−27.6	−23.7	−14.7	−14.7	−14.7
Property with a recovery period of more than 10 years under the alternative depreciation system (such as certain property with no class life)	6.6	−1.6	−16.9	−25.6	−29.9	−31.1	−32.8	−35.1	−33.3	−26.7	−19.7	−12.2

(ii) The amount determined under this subdivision (ii) is the product of the following amounts:

(A) The fair market value of the property,

(B) The average of the business/investment use for all taxable years (in which such property is leased) that precede the first taxable year in which the business use percentage is 50 percent or less, and

(C) The applicable percentage from the following table:

Type of property	First taxable year during lease in which business use percentage is 50% or less											
	1	2	3	4	5	6	7	8	9	10	11	12 and Later
Property with a recovery period of less than 7 years under the alternative depreciation system (Such as computers, trucks and airplanes)	0.0	10.0	22.0	21.2	12.7	12.7	12.7	12.7	12.7	12.7	12.7	12.7
Property with a 7- to 10-year recovery period under the alternative depreciation system (such as recreation property)	0.0	9.3	23.8	31.3	33.8	32.7	31.6	30.5	25.0	15.0	15.0	15.0
Property with a recovery period of more than 10 years under the alternative depreciation system (such as certain property with no class life)	0.0	10.1	26.3	35.4	39.6	40.2	40.8	41.4	37.5	29.2	20.8	12.5

(3) *Example.* The following example illustrates the application of this paragraph (b):

Example. On February 1, 1987, B, a calender year taxpayer, leases and places in service a computer with a fair market value of $3,000. The lease is to be for a period of two years. B's qualified business use of the property, which is the only business/investment use, is 80 percent in taxable year 1987, 40 percent in taxable year 1988, and 35 percent in taxable year 1989. B must add an inclusion amount to gross income for taxable year 1988, the first taxable year in which B does not use the computer predominantly for business (*i.e.*, the first taxable year in which B's business use percentage is 50 percent or less). Since 1988 is the second taxable year during the lease, and since the computer has a 5-year recovery period under the General and Alternative Depreciation Systems, the applicable percentage from the table in subdivision (i) of paragraph (b)(2) is −7.2%, and the applicable percentage from the table in subdivision (ii) is 10%. B's inclusion amount is $154, which is the sum of the amounts determined under subdivisions (i) and (ii) of subparagraph (b)(2) of this paragraph. The amount determined under subdivision (i) is −$86 [$3,000 × 40% × (−7.2%)], and the amount determined under subdivision (ii) is $240 [$3,000 × 80% × 10%].

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: May 17, 1988.

O. Donaldson Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 88-17819 Filed 8-5-88; 10:02 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 256

Outer Continental Shelf Minerals and Rights-of-Way Management, General

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations in Part 256 by adding a section authorizing the Department of the Interior (DOI), to conduct supplemental lease sales in the Outer Continental Shelf (OCS). The new section also limits such sales to certain categories of blocks. This action enables DOI to respond to new geological data in a way that increases the benefits of leasing.

EFFECTIVE DATE: September 8, 1988.

FOR FURTHER INFORMATION CONTACT: Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Offshore Rules and Operations Division, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 646, Reston, Virginia 22091, Telephone (703) 648-7816, (FTS) 959-7816.

SUPPLEMENTARY INFORMATION: This rule authorizes DOI to conduct supplemental sales and stipulates that such sales, except as provided for in the rules, be conducted generally in accordance with the provisions of Part 256 for regular lease sales. The rule also limits the types of blocks which may be offered in supplemental sales to blocks for which bids were previously forfeited or rejected, and blocks which have been identified as development blocks (including blocks susceptible to drainage). The Minerals Management Service (MMS) of DOI proposed this amendment in order to be able to offer certain blocks for lease sooner than would occur under the schedule for regular lease sales in the 5-year leasing plan. Supplemental sales will provide the flexibility to take into account new geological and geophysical data on a timely basis to avoid loss of net economic benefits due to delay in development and production. Lease sales are conducted annually in the Central and Western Gulf of Mexico Planning Areas. Therefore, supplemental sales in those areas are precluded by this rule.

The MMS received comments from nine respondents concerning the propsed rule published in the **Federal Register** on March 26, 1987 (52 FR 9672). Six respondents specifically supported the concept of supplemental sales, two opposed it, and one did not take a position. Two of the six supporting comments expressed concern about the potential for compromise of confidential or proprietary information inherent in the designation of certain blocks as development blocks. This same concern was the basis for one of the comments opposing the proposed rule. The opposing commenter's position is that the labeling of blocks as development blocks would, in itself, reveal that there are data and information to indicate that such blocks are located on the same geologic structure as a lease which has a well indicating hydrocarbons. According to this commenter, the disclosure of this assessment could be extremely detrimental from a competitive standpoint. Several comments, while not opposing supplemental sales, expressed the same concern about disclosure of confidential information and urged the utmost caution. The MMS addressed this point in the preamble to the proposed rule. It was noted that some blocks may be classified as development blocks on the basis of information that is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, and section 26 of the OCS Lands Act (OCSLA), 43 U.S.C. 1352, but the publication of block classifications does not reveal the underlying data and information which may not be disclosed. The authorization in the supplemental sales rule to publish the block classifications does not extend to the publication of any underlying

proprietary data or information. The identification of blocks as development blocks (including blocks susceptible to drainage) indicates only that such blocks may be part of a common geologic structure with other blocks which have a well with indicated hydrocarbons.

Another comment suggested that opportunity be provided to add blocks to the Call area based on nominations and suggestions from industry. The reason given for the suggestion was a concern that a block considered to be critical might be omitted by MMS. The opportunity for industry to suggest and nominate additional blocks for inclusion in a supplemental sale was provided for in the proposed rule. In § 256.12(b), the rule provides that supplemental sales are to be conducted in accordance with the provisions of Part 256 unless exceptions to these provisions are specified. Part 256 includes in § 256.23(a) a provision for MMS to "receive and consider indications of interest in areas for mineral leasing."

There were also suggestions to change the definition of "development block." One suggestion would add language so that a development block could be located not only on the same geologic structure as an existing well, as called for in the rule, but also on a "separate structure which may be contiguous to or cornering an existing lease having a well on it." The definition stated in the proposed rule is the same one used by MMS in other activities, notably classification of tracts for postsale evaluation. The MMS believes it is more practical and desirable to use the same definition for development blocks for both purposes, and the definition proposed in the comment was not specific enough for use in classifying tracts for postsale evaluation or for supplemental sales. Therefore, the final rule incorporates the definition as it appeared in the proposed rule.

Additional comments offered two changes to the definition of development blocks relating to environmental assessment concerns. The first was that the definition include a statement specifying that any block qualifying for a supplemental sale will have been included in a full Environmental Impact Statement analysis which was prepared for the previous regular lease sale in that particular planning area. The second suggestion was that blocks considered for a supplemental sale "should specifically exclude tracts from the last regular lease sale that were deleted pursuant to section 19 consultations * * *." This refers to section 19 of the OCSLA (43 U.S.C. 1345) pertaining to consultations about proposed lease sales with affected States. The definition of development blocks in the proposed rule refers to geologic characteristics which are the essential element in determining whether or not a block can be classified as a development block. The inclusion of other conditions unrelated to the nature of a block's geologic features would be confusing. The National Environmental Policy Act (NEPA) review provisions, which the suggestion would inject into the definition, are independent requirements, and compliance with them would not be enhanced by their inclusion here. Similarly, exclusion of blocks on the basis of deletion from a prior sale pursuant to a section 19 consultation would not improve the proposed rule. It is not deemed to be desirable to exclude a block on the basis of a previous finding which may not be a present factor. This would be an unnecessarily restrictive feature. The NEPA requirements will be fully complied with in each supplemental sale. All blocks will go through an NEPA review and are subject to the full section 19 consultations process.

One comment focused on the need to apply to supplemental sales air quality rules which may be developed in a currently ongoing negotiated rulemaking on this subject. The commenter suggested further that if such regulations are not developed, the air-quality stipulations of Lease Sale 73 be incorporated into any supplemental sale. The issue of air quality is one which MMS has addressed on a sale-by-sale basis in Lease Sales 73 and 80. This approach is expected to be continued for areas adjacent to California until such time as revised air-quality rules may be in place. In any event, air-quality regulations would not be located in the supplemental sales rule but would be contained in the regulations governing postlease operations and would be applicable to all lease sales, whether regularly scheduled or supplemental.

One respondent expressed the opinion that, in general, the text of the proposed rule was not stated clearly enough and did not include specific procedures that were discussed in the preamble to the rule. These general remarks were amplified by suggestions for the addition of several specific requirements pertaining to details of the leasing procedures. One suggestion relating to conducting the Call was that the rule be revised to specify a minimum 45-day comment period. Other suggestions were that the rule state that DOI's evaluation of the comments submitted in response to the Call will be announced at the time the environmental assessment is issued, and that the Call area establishes the maximum size of the sale. Another respondent also expressed concern that without a ceiling on the number of tracts authorized to be offered, supplemental sales could easily evolve into large-scale annual lease sales. A ceiling of five tracts was proposed.

In developing this rule, MMS designed its provisions to accomplish the fundamental purpose of establishing a regulatory basis for conducting supplemental sales. The other objective of the rule's design is to assure that the special purpose of supplemental sales is maintained by limiting the types of blocks eligible to be offered. The procedures to be followed in conducting supplemental sales were not spelled out in the proposed rule but rather were established by reference to the existing regulations of Part 256 which already contain provisions for lease sale procedures. These existing procedures are applicable to supplemental sales except where specifically excluded or expanded.

With respect to the 45-day comment period, this period of time is customarily provided by MMS in regular lease sales although it is not specified in the existing regulations. In accordance with the provision in the proposed rule that the procedures for supplemental sales be the same as those for regular lease sales, MMS expects to continue this practice for supplemental sales. As with regular lease sales, it is preferable to address this matter outside of a regulatory requirement in the event that unexpected or exceptional circumstances in a future lease sale might require a greater or lesser time for comment. The MMS's intention to announce the results of its evaluation of comments at the time the environmental assessment is issued is a matter of policy as outlined in the preamble to the proposed rule. Inclusion of a regulatory provisions to require these procedures is unnecessary and would inhibit MMS's ability to respond if a unique situation arose which might call for an alternative approach. With respect to the concern that supplemental sales may evolve into large-scale annual lease sales, we believe this is highly unlikely, if not impossible, given the definitional limitations on eligible blocks.

Other comments concerned limitations on the inclusion of forfeited or rejected blocks. One comment stated that the language is ambiguous in § 256.26(a) of the proposed rule pertaining to determination of the prior time period which may be covered in a

Call for forfeited or rejected blocks when the Call follows a period during which an annual supplemental sale has not been held. The commenter also proposed a 2-year limit on consideration of rejected or forfeited blocks because this would be "in keeping with the triennal pace of lease sales provided for in the new 5-year program."

The statement in the rule establishing the period which may be covered by a Call when an annual sale(s) has not been held is required so that under these circumstances the Call may include a longer time period than the rule prescribes when sales are held annually. The MMS has reviewed this provision in light of the comment and also reconsidered the limitation of the "preceding fiscal year" requirement. It was not clear in the proposed rule that the exception to reach back beyond the immediately preceding year was to be effective only after the initial supplemental sale has been held. A phrase to clarify this has been added, and the language has been changed to state more precisely the meaning of this provision. In addition, in reconsidering the limitations on the period of time during which forfeited or rejected bid blocks should be eligible for supplemental sales, we have determined that the language of the proposed rule is unnecessarily restrictive in that it precludes offering blocks for which bids may have been forfeited or rejected in the same year as a supplemental sale. In view of the purpose of this rule to provide a means of making available on a timely basis a small number of tracts in unique situations, we have added language in the final rule to allow the offering of blocks rejected or forfeited in the year of a sale. For the same reason, we have also determined that use of calendar rather than fiscal years to establish eligibility of forfeited and rejected blocks for inclusion in supplemental sales is more appropriate. This change has also been made in the final rule.

We have not adopted the proposed 2-year limit on reoffering forfeited or rejected blocks. This comment appears to be based on an expectation that after 2 years, forfeited or rejected bids might be reoffered in a regularly scheduled sale. Even if this were to occur, MMS sees nothing to be gained by removing the possibility, after 2 years, of reoffering such blocks in a future supplemental sale. In addition, forfeited or rejected bid blocks would be eligible for reoffering in a later supplemental sale only if supplemental sales were not held annually for the two consecutive years in which blocks are eligible. The suggested limitation is unnecessary since the concept, purpose, and scope of supplemental sales is completely different from regularly scheduled sales. Supplemental sales are to be very limited and structured so as to accommodate a more timely and selective response to current developments.

The DOI has determined that this rule will have a positive effect on the economy and is not a major rule under Executive Order 12291; therefore, a regulatory impact analysis is not required.

The DOI has also determined that this rule will not have a significant economic effect on small entities since offshore activities are complex undertakings generally engaged in by enterprises that are not considered small entities.

The DOI has also determined that this action does not constitute a major Federal action affecting the quality of the human environment, and therefore an environmental impact statement is not required.

This rule does not contain any information collection which requires approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Author: This document was prepared by Mary McDonald, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR Part 256

Administrative practice and procedure, Continental shelf, Government contracts, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

Date: July 10, 1988.

Wm. D. Bettenberg,

Director, Minerals Management Service.

For the reasons set forth in the preamble, 30 CFR Part 256 is to be amended as follows:

PART 256—[AMENDED]

1. The authority citation for Part 256 continues to read as follows:

Authority: Secretarial Order 3071, Amendment No. 1, May 10, 1982, and the OCS Lands Act, 43 U.S.C. 1331 *et seq.*, as amended, 92 Stat. 629.

2. In Subpart A, § 256.12 is added to read as follows:

§ 256.12 Supplemental sales.

(a) The Secretary may conduct a supplemental sale in accordance with the provisions of this section.

(b) Supplemental sales shall be governed by the regulations in this part, except § 256.22.

(c) Supplemental sales shall be limited to blocks falling into one or more of the following categories:

(1) Blocks for which bids were rejected during the calendar year preceding the year of the supplemental sale in which they are reoffered or blocks for which bids were rejected in the same calendar year as the supplemental sale in which they are reoffered, except that for the initial supplemental sale only blocks for which bids were rejected after October 1, 1987, may be reoffered. If, after the initial supplemental sale, a supplemental sale is not held annually for any reason, the relevant period for determining blocks eligible for a subsequent supplemental sale may be extended to include rejected bid blocks which were eligible for the supplemental sale not held.

(2) Blocks for which the high bid was forfeited during the calendar year preceding the year of the supplemental sale in which they are reoffered or blocks for which high bids were forfeited in the same calendar year as the supplemental sale in which they are reoffered, except that for the initial supplemental sale only blocks for which high bids were forfeited after October 1, 1987, may be reoffered. If, after the initial supplemental sale, a supplemental sale is not held annually for any reason, the relevant period for determining blocks eligible for a subsequent sale may be extended to include forfeited bid blocks which were eligible for the supplemental sale not held.

(3) Development blocks. Development blocks (including blocks susceptible to drainage) are blocks which are located on the same general geologic structure as an existing lease having a well with indicated hydrocarbons; the reservoir may or may not be interpreted to extend on to the block.

(d) Supplemental sales shall not include blocks in the Central or Western Gulf of Mexico Planning Areas.

(e) The Director may disclose the classification of blocks in supplemental sales as development blocks.

3. Section 256.26 is amended by adding a sentence at the end of § 256.26(a) to read as follows:

§ 256.26 General.

(a) * * * For supplemental sales provided for by § 256.12 of this part, the Director's recommendation shall be replaced by a statement describing the results of the Director's consideration of

the factors specified above in this section.

* * * * *

[FR Doc. 88-17951 Filed 8-8-88; 8:45 am]

BILLING CODE 4310-MR-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 86-1B]

Copyright Registration for Colorized Versions of Black and White Motion Pictures; Final Rule

AGENCY: Copyright Office, Library of Congress.

ACTION: Final regulation.

SUMMARY: The Copyright Office of the Library of Congress is adopting a final rule with respect to the deposit of a black and white print of a motion picture along with a copy of the computer colorized version in order to register a claim to copyright in the colorized version. This is intended to improve the ability of the Copyright Office to process applications to register claims to copyright.

EFFECTIVE DATE: August 9, 1988.

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

SUPPLEMENTARY INFORMATION: On June 22, 1987, the Copyright Office announced its decision to register certain colorized versions of black and white motion pictures (52 FR 23443). Two days later, the Office published a proposed rule that would require the deposit of a black and white print along with a copy of the computer-colorized version in order to register a claim to copyright in the selection of colors. (52 FR 23691). Interested persons were asked to comment on the proposed rule.

Six comment letters were submitted. Two of these objected to the decision to register claims to copyright in the colorized version. For the reasons given in the June 22, 1987 registration decision, the Office maintains the view that certain colorized films can satisfy the original work of authorship standards of the copyright law.

Of the other four comments, one represents the attorney's own views; two represent groups who are making colorized versions; and the fourth is characterized as a summary of responses to the proposed rule made by thirteen members of the Copyright Office Affairs Committee of the Patent, Trademark and Copyright Section of the American Bar Association ("ABA").[1] These comments specifically address the proposed deposit regulation by questioning in one way or another the Copyright Office's authority to make such a rule, the wisdom of requiring the comparison of the two versions in the examination process, or the necessity of requiring a black and white print as a deposit instead of a black and white videtape. They also raise other issues related to this rulemaking.

1. The Authority Issue

One attorney questions whether the Copyright Office, a legislative branch agency, should exercise what he characterizes as even broader administrative and executive functions. He contends that the proposed rule on deposit violates both the letter and the spirit of the copyright statute. Eleven of the thirteen ABA committee members who responded felt that the Office lacks the statutory authority to establish the proposed deposit requirement. On the other side, two ABA members including a law professor felt the Copyright Office had sufficient authority to do so. The comments submitted on the behalf of colorizes indicate a willingness to deposit a black and white copy of the motion picture for the benefit of the public without conceding the Office's authority to require one, provided the requirements are reasonable.

The Copyright Office finds that authority for requiring a black and white copy in addition to the colorized copy exists under both the general rulemaking authority of 17 U.S.C. 702 and the specific authority given to the Register of Copyrights to specify by regulation, the "nature of the copies or phonorecords to be deposited in the various classes specified." 17 U.S.C. 408(c)(1). In *National Conference of Bar Examiners v. Multistate Legal Studies, Inc.*, 692 F.2d 478 (7th Cir. 1982), the Seventh Circuit found that the Copyright Act "vest[s] broad authority in the Register of Copyrights to fashion a workable system of registration and deposit of copyrighted works." 692 F.2d at 484. It is clear that the deposit requirements serve many purposes: examination of claims; evidence of the identity, content, and scope of the registered work for litigation and commercial transaction purposes; and enrichment of the collections of the Library of Congress for contemporary users (both the general public and the Congress) and for posterity. The Register of Copyrights is vested with broad authority to establish reasonable deposit requirements that take account of the varied, and sometimes conflicting, purposes of the registration-deposit system.

When the Copyright Office announced its decision to register certain colorized versions of black and white prints, it specified a set of criteria it would use to determine whether the color added to a black and white motion picture is a modification of a preexisting work "which, as a whole, represent[s] an original work of authorship." 17 U.S.C. 101. One of these criteria is that the color added be more than a trivial variation. Another confirms the existing regulatory prohibition on copyright registration based on mere variations of color.

After examination of all of the comments submitted in response to the original Notice of Inquiry and to the proposed regulation, the Copyright Office concludes that the deposit of a black and white film version will facilitate the examination necessary to determine that the colorized version for which registration is sought is more than a trivial variation. Color conversion of films by computer clearly represents a new way of creating derivative works. The Office has stated that it will monitor technological developments to assess further the quantity of human authorship and the degree of control the "technician-author" exercises in relation to the computer. The Office could have adopted other requirements to gain information that would assist in the examination of claims, such as affidavits or other paper documentation. The deposit requirement selected by the Office has the advantage both of facilitating examination to ascertain the fact of original authorship in the colorized version compared to the previous versions of the film, and of enriching the collections of the Library of Congress for the benefit of the public and posterity.

The Office has considered the expense and possible inconvenience to registrants of requiring deposit of the black and white copy. The Office notes that the colorization process itself is expensive. The average cost is $180,000 to $200,000 per film. The cost of a print for registration is modest in comparison, especially when one also considers the

[1] The Chairman of this Committee mailed a cover letter summing up his views and past discussion to each member with a space provided for each member to check a box denoting wehther he or she agreed with the proposed rule or believed the Committee should oppose the rule. A space was also provided for each member to comment on the rule. It is not clear from the comment submitted to the Copyright Office, primarily a distillation of the views set out in the Chairman's cover letter, how many members made individual comments.

value of the intellectual property protected by the registration.

With respect to convenience, in order to make the colorized version, the colorizer must already have access to the black and white version; and, as a rule, this will be a celluloid print. In those cases where the particular copy does not satisfy the archival standards of the Library, special relief may be requested, based on a proposal to deposit the best available, near-archival quality black and white print.

Precedent exists for requiring supplementary or identifying deposit materials in addition to the copy of the work for which registration is sought. In the case of motion pictures, the Copyright Act of 1909 required the deposit of a description of the work in addition to photographs or prints; the regulations issued in 1978 require deposit of a separate description of the contents, such as a continuity or pressbook, in addition to one complete print. When the Copyright Office first registered claims to copyright in computer programs in 1984, the Office required deposit of two machine-readable copies, a complete print-out in human-readable form, and any accompanying manuals, flow charts, or other documentation. Like computer program registration in 1964, registration of computer-colorized motion pictures in the 1980's presents the Office with difficult, new copyright examination issues. The deposit requirement adopted today is responsive to the unique nature of the computer-colorizing process.

2. Comparison of Different Versions

Two comments question the wisdom of allegedly establishing a precedent by comparing the original work and the derivative work to determine the copyrightability of the derivative work.

One comment asserts that if such a practice is limited to colorized motion pictures, it is discriminatory. The commentator maintains that although the proposed deposit rule is not "expressly forbidden," Copyright Office practice and the Compendium of Copyright Office Practices "make it clear that the examination process is not intended to include the making of comparisons." He quotes a pre-1978 regulation which said that the Office does not make comparisons "to determine similarity of works." He also cites a current Compendium statement that the Office does not "*generally* make comparisons of copyright deposits to determine whether or not particular material has already been registered." *Compendium II Copyright Office Practices*, 108.03. (Emphasis added).

The other comment that addresses this issue reports that most of the ABA members who oppose the proposed deposit rule feel that examination of the derivative work by comparison with the original would establish a dangerous precedent. Some of them also expressed the fear that the Copyright Office is moving toward a patent type examination. To the contrary, another ABA respondent asserted that he had already considered all of these arguments, and still felt the proposed deposit requirement to be a good one that would not "place the Copyright Office on a 'slippery slope' toward becoming anything that even begins to approximate the Patent and Trademark Office."

The Copyright Office has considered these arguments especially in light of the grounds asserted for registration of claims to copyright in colorized versions of films. The Copyright Act specifies that the issuance of the certificate follows the examination and determination that "the material deposited constitutes copyrightable subject matter * * *" 17 U.S.C. 410(a). Moreover, "the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate." 17 U.S.C. 410(c). The Compendium specifies in section 108.01 that examination is made to determine:

(1) Whether or not the work for which registration is sought constitutes copyrightable subject matter and
(2) Whether or not legal and formal requirements have been met * * *

The arguments based on the pre-1978 regulation or section 108.03 of the Compendium are not persuasive. Like existing 37 CFR 201.2(a)(1), the pre-1978 regulation cited by one commentator applies to "information given by the Copyright Office," in response to requests from a member of the public. Neither regulation applies to examination of claims to copyright, which is governed by regulations set forth at 37 CFR Part *202* and by the *Compendium*. Section 108.03 would apply to a situation where there is a possibility that more than one colorized version of the same black and white film may exist. In that case the Copyright Office would not "generally" make a comparison based on determining whether a prior colorized version has already been registered, although it may do so occasionally—hence we use the qualifying term "generally."

Thus, even if section 108.03 were applicable, it merely states a *general* practice that admits of exception. While the practice may not be generally known, in fact, the Copyright Office does occasionally compare previously registered works in examining a given claim. We have done so for several decades. The application forms have long requested disclosure of a previous registration (including the registration number) where registration is sought for a derivative work. The comparison is made depending on a number of factors, including the nature of the work, the nature of the authorship claimed as new matter, the availability of the prior registered copy, whether the registration number is known, whether the copy of the pending work discloses information that presents a registration issue (e.g. the year date in the notice) that may be resolved by review of the previously registered work, and so forth. In the past, comparisons have been made especially between unpublished music and published music claims, between ad interim books and the American edition, and between original term works and renewal applications for such works.

The Copyright Office is not embarking, and does not seek to embark, upon a patent or trademark-like examination. The regulations we are adopting will ensure that a Copyright Office examiner will have the necessary material to determine whether the colorized version is more than a trivial variation of the original film from which it is derived. The Office will examine *each* colorized version on its own merits in relation to the material each added to the original black and white film.

3. The Necessity of Requiring a Black and White Print

Three comments are directed to the burden imposed on the registrant of a colorized version by requiring a deposit of a black and white print. One comment argues that if this deposit requirement is retained, it must be recognized as "ancillary" and cannot impose any "meaningful burden" on the copyright owner. Another urges that the proposed deposit rule "imposes a burdensome and expensive" requirement on one type of derivative work. The third comment asserts that real practical impediments exist:

1. No single print of the underlying work may exist.

2. The registrant may not own the black and white print.

3. It would be "extremely difficult, and prohibitively expensive, to produce a 'complete print' of the version upon which the colorized version was based."

Two of these comments assert that the person making the deposit should be

given the option of depositing either a videotape or a print of the black and white version. One of them suggests that the regulations could require deposit of "one viewable copy of the black and white motion picture upon which the color-converted version is based." The other insists that a balance is needed to accommodate the needs of the Copyright Office and the Library of Congress without burdening the copyright owner.

On the other side, a film group opposed to registration of colorized film urges that only black and white print is acceptable. This group observes that the black and white videotape used to produce colorized versions "is intentionally printed with low contrast to facilitate colorization" and says that the proposed rule does not recognize the "crucial differences in format" between the colorized motion picture, which exists only on videotape, and the original black and white film, which exists in celluloid. It emphasizes that the black and white videotape is unsuitable for archival purposes and questions whether *any* tape, black and white or color, is a viable form of deposit for archival purposes since it has a short shelf life especially when compared to celluloid print.

While only six parties responded to the proposed new regulation, forty-three responded to the original inquiry concerning registrability. A majority of the individuals who responded to the original inquiry characterized colorization as a desecration of the original black and white film, and many of them expressed the fear that the original black and white film would be lost to posterity. In legislative hearings, colorizers assured the congressional copyright subcommittees that colorizing not only enhances the quality of the old black and white film, but also ensures that the old film will be preserved and will always be available in its original form.[2]

In the original comment period, several of those who supported registration of the colorized version, also saw the need for deposit of the black and white print. The Copyright Office preliminarily concluded that such a deposit would serve two purposes: To enable the examiner to determine better whether the colorized version satisfies the applicable standards for copyright registration, and to enrich the collections of the Library of Congress since in many cases the older black and white films were never registered or otherwise deposited with the Library.[3]

Both in this administrative proceeding and in congressional hearings, one or more proponents of colorization stated that they obtained the best quality print of the original black and white film *before* transferring it to a black and white videotape. Representations were made that restoring the black and white print sometimes meant re-assembling the film by putting together several flawed prints, restoring lost reels, putting the restored work on 35mm, or transferring 35mm nitrate stock to safety stock. In the words of a representative of Hal Roach Studios, "That cost a lot of money. We would not be doing this if we did not feel that we could at least get our money back through colorizing the film. But besides that, we are taking a film that nobody really cared about, preserving it, giving it lasting value and making it available to the public in both black and white and color." This spokesperson went on to say that Hal Roach "has a tremendous film library." [4]

Hal Roach Studios now asserts that it would be extremely difficult, and prohibitively expensive, to produce a "complete print of the version upon which the colorized version was based."[5]

On the other hand, film archivists assert that a black and white videotape will not serve any use for archival purposes. Moreover it would be much more expensive for the Library of Congress to take a black and white videotape and transfer it to a print that would be viable for archival purposes than it would be for the colorizer to prepare a print for deposit. Ultimately the deposit of the black and white videotape would satisfy only one of the purposes the Copyright Office foresaw in proposing the new rule—the examination purpose. Moreover, such a deposit would do nothing to assure for posterity that the black and white prints will be preserved.

On balance, the Copyright Office has decided to adopt the proposed amendment modified by a reference to special relief. Upon a showing in a particular case that the registrant does not own an archival quality print or that it would be prohibitively expensive to prepare a new archival quality print where none is otherwise available, the Copyright Office will consider deposit under special relief. The claimant must in such cases make a good faith effort to deposit the best available, near-archival quality print. Special relief to deposit a black and white videotape will be granted only where a celluloid print is demonstrably unavailable. Given the previously noted representations of the colorizers regarding their acquisition or development of archival-like quality black and white prints, we would expect that ordinarily special relief is unnecessary.

4. Related Issues

(a) *Availability of the Motion Picture Agreement.* One comment requests clarification of whether a form of the Motion Picture Agreement will be available for black and white deposits. The Motion Picture Agreement does not apply to these deposits. The Agreement was developed to encourage timely registration of a motion picture without requiring the registrant to keep a print out of circulation at the very time that the motion picture was being exhibited for the first time. Such a consideration does not exist here where the registrant is planning primarily to exhibit the colorized videotape version.

Moreover, the Library intends to select all black and white prints received under this regulation. If the Motion Picture Agreement were available, this would lead to unnecessary back and forth transportation of prints between the Library and the depositor.

The Motion Picture Agreement is currently available in the case of the colorized videotape version.

(b) *Applicability of "best edition".* One comment requests confirmation that the Best Edition Statement of the Library of Congress is inapplicable. The Library would prefer deposit of the black and white print in the order of preference listed in the Best Edition Statement. We recognize, however, that older works may not be available in certain gauges, and would request that the registrants make a good faith effort to deposit the best available film print, in particular a print that is clear, undamaged, undeteriorated, and free of splices. We understood that restoring or cleaning the black and white print before colorization involves preparation of an excellent quality print. If

[2] *See* Hearing on Colorization Before the Subcommittee on Technology and Law of the Senate Judiciary Committee, May 12, 1987, (statement of Roger L. Mayer, President, Turner Entertainment Co.) (statement of Rob Word, Senior Vice President, Creative Affairs, Corporate Officer, Hal Roach Studios, Inc.) (hereafter "1987 Senate Hearing").

[3] The gaps in the Library's collection exist primarily with respect to 1930's and 1940's films. Before the introduction in 1942 of the special contractual arrangement, known as the Motion Picture Agreement, many films were not registered; the films could not be acquired through the demand deposit provisions of the Copyright Act of 1909 because the films were arguably unpublished under that former law. Contrary to the assertion of one commentator, the Motion Picture Agreement has been a vehicle for filling gaps in the collection and is not the cause of the gaps.

[4] 1987 Senate Hearing, Statement of Rob Word.

[5] RM 86-1B, Comment 6.

preservation of the black and white print is one of the benefits of colorization, the Library would expect that a "complete" black and white print will be deposited to achieve that benefit for posterity. Special relief is available, of course, if the requirement cannot be satisfied in a particular case, for example, where a black and white kinescope copy is colorized.

* * * * *

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is a part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5 Chapter 5 of the U.S. Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.[6]

List of Subjects in 37 CFR Part 202

Claims, Claims to copyright, Copyright registration.

Final Regulation

In consideration of the foregoing, the Copyright Office is amending Part 202 of 37 CFR, Chapter II.

1. The authority citation for Part 202 continues to read as follows:

Authority: Copyright Act, Pub. L. 94–553, 90 Stat. 2541 [17 U.S.C. 702].

2. Section 202.20(c)(2)(ii) is amended by adding the following sentence at the end thereof:

§ 202.20 Deposit of copies and phonorecords for copyright registration.

* * * * *

(c) * * *

(2) * * *

(ii) *Motion pictures.* * * * In the case of colorized versions of motion pictures made from pre-existing black and white motion pictures, in addition to the deposit of one complete copy of the colorized motion picture and the separate description of its contents as specified above, the deposit shall consist of one complete print of the black and white version of the motion picture from which the colorized version was prepared. If special relief from this requirement is requested and granted, the claimant shall make a good faith effort to deposit the best available, near-archival quality black and white print, as a condition of any grant of special relief.

* * * * *

Dated: July 29, 1988.

Ralph Oman,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 88–17869 Filed 8–8–88; 8:45 am]

BILLING CODE 1410–07–M

[6] The Copyright Office was not subject to the Administrative Procedure Act before 1976, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title [17]," except with respect to the making of copies of copyright deposits). [17 U.S.C. 706(b)]. The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA–FOIA requirements.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3425–8]

Approval and Promulgation of Implementation Plans Georgia: Amendments to Open Burning Rules; GA–010

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Georgia Rule 391–3–1.02, Section (5), entitled "Open Burning," has been amended in subsections (b) and (d). Subsection (b) is amended to allow "reduction of leaves on the premises on which they fall by the person in control of the premises, unless prohibited by local ordinance and/or regulation" in counties whose total population, as listed in the most recent census, exceeds 65,000. This burning is to be done between 10:00 a.m. and 6:00 p.m., whenever feasible. EPA is approving this portion of the regulation because Georgia has provided adequate demonstration that ambient air quality standards will not be jeopardized. Subsection (d) is amended to limit smoke opacity, "except for a reasonable period to get a fire started," to 40 percent opacity rather than #2 of the Ringelmann chart from any source of open burning referred to in subsections (a) and (b) of this rule. Opacities of #2 of the Ringelmann chart and 40 percent opacity are equivalent. This amendment is necessary to update measurement techniques. Therefore, EPA approves the change in subsection (d).

DATES: This action will be effective October 11, 1988, unless notice is received within 30 days of publication that adverse or critical comments will be submitted.

ADDRESSES: Copies of the State submittal for this action are available for public inspection during normal business hours at:

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

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

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

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

SUPPLEMENTARY INFORMATION: On May 22, 1985, the Georgia Department of Natural Resources submitted to the Environmental Protection Agency (EPA) changes to the Georgia State Implementation Plan (SIP) to provide for attainment of the ozone National Ambient Air Quality Standard in Atlanta and to assure visibility protection for Class I areas throughout Georgia. These regulatory changes were addressed in a public hearing on April 19, 1985, after which they became State-effective on May 27, 1985. That submittal also included amendments to Georgia rule 391–3–1–.02, Section (5) entitled "Open Burning" which are being approved today.

Subsection (b) of Georgia Rule 391–3–1–.02, Section (5) is being amended to allow "reduction of leaves on the premises on which they fall by the person in control of the premises, unless prohibited by local ordinance and/or regulation" in counties whose total population, as listed in the most recent census, exceeds 65,000. Prior to this amendment, burning of this sort was not allowed in counties whose total population exceeded 65,000. EPA's review of this amendment raised several points: (1) The total amount of particulate matter emitted from leaf burning will increase if more leaves will be burned; (2) the particulate emitted per county may likewise increase due to the greater population of these counties (arguably, more residents mean more leaves raked and burned than in less populous counties); (3) the increased leaf burning may impact other areas; (4) there is no demonstration that monitors presently showing attainment in

counties without open burning will continue to do so once leaf burning is allowed. It stands to reason that the likelihood of a threat to ambient standards and public health and welfare will increase as a result of this rule change. In view of these facts, EPA informed the Georgia Environmental Protection Division (EPD) that it would be necessary for EPD to submit a demonstration showing that the revision would not jeopardize the attainment status of these areas. Since the open burning of leaves is of a seasonal nature, it was determined that the short-term ambient particulate standard, rather than the annual standard would be the critical standard in any demonstration. On February 19, 1988, Georgia EPD submitted a modeling demonstration using the ISCST model of UNAMAP VI. The modeling results clearly showed that the short-term NAAQS for particulate matter would be protected. In light of EPA's revision of the particulate matter standard on July 1, 1987 (52 FR 24634), a modeling demonstration was done to show that the standards were protected for PM_{10} (particulate matter with a nominal diameter of 10 micrometers or less).

Modeling the open burning of a pile of leaves using the conditions and assumptions agreed upon in meetings between EPA's Regional Office and Georgia's EPD yields a total concentration of 67.85 $\mu g/m^3$ for total suspended particulate (TSP) and 56.86 $\mu g/m^3$ for PM_{10}. These concentrations are well within the 24-hour National Ambient Air Quality Standards (NAAQS) for TSP and PM_{10} of 150 $\mu g/m^3$.

Subsection (d) of Georgia Rule 391-3-1-.02, Section (5) is being amended to limit smoke opacity, "except for a reasonable period to get a fire started," to 40 percent opacity rather than #2 of the Ringelmann chart from any source of open burning referred to in subsections (a) and (b) of Georgia Rule 391-3-1.02 Section (5). Opacities of #2 of the Ringelmann chart and 40 percent opacity are equivalent. This amendment merely updates measurement techniques. There will be no environmental impact from this amendment.

For further information on this action, the reader may examine a Technical Support Document at the EPA Regional Office whose address is listed above.

Final Action

EPA is approving the previously discussed amendments to Georgia rule 391-3-1.02, Section (5), subsections (b) and (d). No adverse impact on the air, including air quality, is expected.

EPA is publishing this action without prior proposal because the agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective October 11, 1988 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective October 11, 1988.

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

Under section 307(b)(1) of the Act, petitions for judicial review must be filed in the United States Court of Appeals for the appropriate circuit by October 11, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air Pollution control, Incorporation by reference, Intergovernmental Relations, Particulate matter.

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

Dated: August 1, 1988.

Lee M. Thomas,

Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7642.

Subpart L—Georgia

2. Section 52.570 is amended by adding paragraph (c)(36) to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(36) Revised subsections (b) and (d) of rule 391-3-1-.02 (5), "Open Burning," were submitted by the Georgia Department of Natural Resources on May 22, 1985.

(i) Incorporation by reference.

(A) Letter of May 22, 1985, from the Georgia Department of Natural Resources and revised subsections (b) and (d) of rule 391-3-1-.02(5), entitled "Open Burning," adopted by the Georgia Board of Natural Resources on May 1, 1985, to be effective May 27, 1985.

(ii) Additional material.

(A) Modeling demonstration, submitted on February 19, 1988, by the Georgia Department of Natural Resources.

[FR Doc. 88-17801 Filed 8-8-88; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 6F3452, PP 8F3577/R973; FRL-3426-7]

Pesticide Tolerances for 2-[1-(Ethoxyimino)Butyl]-5-[2-(Ethylthio)Propyl]-3-Hydroxy-2-Cyclohexen-1-One

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one (also known as sethoxydim), calculated as parent, in or on the raw agricultural commodities (RACs) brassica leafy vegetables crop group at 5.0 parts per million (ppm), celery at 1.0 ppm, cucurbit vegetables crop group at 2.0 ppm, head lettuce at 1.0 ppm, leaf lettuce at 2.0 ppm, and spinach at 4.0 ppm. This regulation was requested by the BASF Corp. and establishes the maximum permissible level for residues of the herbicide on these RACs.

EFFECTIVE DATE: August 9, 1988.

ADDRESSES: Written objections, identified by the document control number, [PP 6F3452, 8F3577/R973], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-1800.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of June 22, 1988 (53 FR 23420), in which it was announced that the BASF Corp., P.O. Box 181, 100

Cherry Hill Rd., Parsippany, NJ 07054, had submitted a pesticide petition, PP 8F3577, to EPA proposing to amend 40 CFR 180.412 by establishing tolerances for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the parent) in or on the RACs celery at 1.0 ppm; lettuce, head and leaf, at 10 ppm; and spinach at 3.0 ppm.

The petitioner subsequently amended PP 8F3577 by submitting a revised Section F proposing tolerances of 2.0 ppm for leaf lettuce, 4.0 ppm for spinach, 1.0 ppm for head lettuce, and 1.0 ppm for celery. Originally proposing tolerances of 2.0 ppm for cucurbit vegetables and 9.0 ppm for brassica leafy vegetables, PP 6F3452 was not filed initially, and because of the potential increase in risk to humans from the increased tolerances for spinach and leaf lettuce, the tolerances were proposed for 30 days to allow a period for public comment.

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

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

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

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

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

List of Subjects in 40 CFR Part 180

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

Dated: August 1, 1988.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.412(a), by adding and alphabetically inserting entries for the following raw agricultural commodities, to read as follows:

§ 180.412 2-[1-(Ethoxyimino)butyl]-5-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Brassica leafy vegetables	5.0
* * * * *	
Celery	1.0
* * * * *	
Cucurbit vegetables	2.0
* * * * *	
Lettuce, head	1.0
Lettuce, leaf	2.0
* * * * *	
Spinach	4.0
* * * * *	

[FR Doc. 88-17925 Filed 8-8-88; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-47

[FPMR Amendment H-168]

Utilization and Disposal of Real Property

AGENCY: FPRS, General Services Administration.

ACTION: Final rule.

SUMMARY: This rule amends the regulations to revise the procedures for reporting certain excess Government-owned real property which contains asbestos-containing materials and for disposing of such real property as has been determined surplus. The procedures are being revised to require the holding end disposal agencies to include information on the presence of asbestos-containing materials in their respective excessing and offering documents as part of the disposal process.

DATE: This regulation is effective August 9, 1988.

FOR FURTHER INFORMATION CONTACT: Marjorie L. Lomax, Director, Policy and Planning Division, Office of Real Estate Policy and Sales, Federal Property Resources Service, General Services Administration (202-535-7052).

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

This regulation informs Federal agencies that excess real property which is reported to GSA for disposal must include information on the presence of certain asbestos-containing materials. In addition, this regulation advises the public that the disposal agency shall include such information in its offering documents as part of its disposal process.

Comments

GSA previously published this regulation as a proposed rule in the **Federal Register** of February 17, 1988. In addition, in a letter to the various landholding executive agencies, GSA also indicated that it would require information on the cost and time necessary to remove any asbestos-containing materials. As a result of the publication in the **Federal Register** and through other correspondence with the executive landholding agencies, GSA received a number of comments. The commenters generally endorsed the GSA proposal, with some offering additional suggestions/recommendations as follows:

1. One commenter objected to the requirement to provide the disposal

agency with the estimate of the cost and time to remove deteriorated asbestos-containing materials on the basis that such information would not be reasonably available or ascertainable from the agency files. GSA's intent in proposing to require the estimates was to obtain as much information as possible to assist the disposal agency in its internal decisionmaking regarding the properties reported to it for disposal. GSA has clarified its intent in obtaining such information in this final regulation.

2. One commenter recommended that GSA perform, or contract for, any required technical asbestos-containing materials studies. GSA does not intend in the regulation to require any technical asbestos-containing materials studies. GSA only intends that the holding agency provide to the disposal agency that information that the government already has available with respect to the presence of asbestos-containing materials in the property.

3. Two commenters recommended that GSA clarify the extent to which information is to be made available. GSA does not believe it can adequately describe the extent of the files and records search appropriate for each property. GSA believes that each holding agency is in the best position to know what files may be available and the likelihood that asbestos-containing materials are present in each building.

4. Two commenters recommended that GSA require future owners to include the information on asbestos-containing materials in subsequent resales. GSA does not believe that this requirement would be practical or enforceable. The only effective means of ensuring continuous notice would be a deed covenant. GSA did not intend for this regulation to require such a deed notice. GSA's intent is to ensure a consistent approach to disposals of government real property. Subsequent resales would be subject to State and local law at the time of sale.

5. Several commenters recommended that GSA use the term "asbestos-containing material" in the regulation. This change has been incorporated into the final regulation.

6. One commenter expressed concern over the relationship of this regulation and the Environmental Protection Agency (EPA) proposed regulation implementing section 120(h) of the Superfund Amendments and Reauthorization Act Amendments of 1986 (SARA) (Pub. L. 99-499). The proposed EPA regulation, which was published in the Federal Register of January 13, 1988, requires notice to potential purchasers of Federal real property on which hazardous substance activity took place. GSA is aware of this regulation and has worked closely with EPA on both the SARA and this regulation. The SARA regulation concerns the "environment" (i.e. the ambient air, soil, water, etc.). This asbestos regulation concerns buildings where asbestos-containing materials are part of the building. This regulation states in § 101-47.200(b) that the provisions of the regulation do not apply to asbestos which falls under SARA, i.e., asbestos which is an environmrntal issue will be handled by EPA's SARA regulation. Any asbestos-containing materials which are part of the building will be handled by this GSA regulation.

This commenter also recommended that this regulation be revised to discuss only "friable asbestos". GSA's intent is to provide a method for the government in its surplus property disposals to handle asbestos in any form, friable or not. The government will describe the asbestos-containing materials based on the reasonably available information. As discussed in § 101-47.304-13(f), the purchaser agrees to be responsible for remedial action to meet appropriate Federal, State, and local regulations for occupancy of buildings.

7. One commenter requested clarification of the wording of the warning notice in § 101-47.304-13. We have revised the wording of the warning notice.

8. One commenter questiond the need to disclose the existence of asbestos-containing material in Government real property. This commenter also requested clarification of the wording of the health risks and requested disclosure of any asbestos control programs instituted by the government. GSA believes that the disclosure of the existence of asbestos-containing materials in a building proposed for disposal is a prudent requirement and will ensure a consistent approach to sales of government real property. GSA has changed the regulation to require information on the existence of any asbestos control programs and has reworded the warning notice.

After careful consideration of these comments, GSA continues to believe the publication of the regulation is a prudent action. GSA has modified the content of the final regulation as discussed above.

List of Subjects in 41 CFR Part 101-47

Government property management, Surplus Government property.

PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Accordingly, 41 CFR Part 101-47 is amended as follows:

1. The authority citation for Part 101-47 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 101-47 is amended to add the following entry:

Sec.
101-47.304-13 Provisions relating to asbestos.

Subpart 101-47.1—General Provisions

3. Section 101-47.103-5 is revised to read as follows:

§ 101-47.103-5 Decontamination.

The complete removal or destruction by flashing of explosive powders; the neutralizing and cleaning-out of acid and corrosive materials; the removal, destruction, or neutralizing of toxic, hazardous or infectious substances; and the complete removal and destruction by burning or detonation of live ammunition from contaminated areas and buildings.

Subpart 101-47.2—Utilization of Excess Real Property

4. Section 101-47.200 is revised to read as follows:

§ 101-47.200 Scope of subpart.

(a) This subpart prescribes the policies and methods governing the reporting by executive agencies and utilization by Federal agencies of excess real property, including related personal property within the State of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. This subpart does not apply to the abandonment, destruction, or donation to public bodies, under section 202(h) of the Act (covered by Subpart 101-47.5).

(b) The provisions of this Subpart 101-47.2 shall not apply to asbestos on Federal property which is subject to section 120(h) of the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499.

5. Section 101-47.202-2 is amended by adding paragraph (b)(9) to read as follows:

§ 101-47.202-2 Report forms.

* * * * *

(b) * * *

(9) To the extent such information is reasonably available or ascertainable from agency files, personnel, and other inquiry, a description of the type, location and condition of asbestos incorporated in the construction, repair,

or alteration of any building or improvement on the property (e.g., fireproofing, pipe insulation, etc.) and a description of any asbestos control measures taken for the property. To assist GSA in considering the disposal options for the property, agencies shall also provide to GSA any available indication of costs and/or time necessary to remove all or any portion of the asbestos-containing materials. Agencies are not required to conduct any specific studies and/or tests to obtain this information. (See also § 101–47.200(b).)

6. Section 101–47.202–7 is revised to read as follows:

§ 101–47.202–7 Reports involving contaminated property.

Any report of excess covering property which in its present condition is dangerous or hazardous to health and safety, shall state the extent of such contamination, the plans for decontamination, and the extent to which the property may be used without further decontamination. In the case of properties containing asbestos-containing materials and in lieu of the requirements of the foregoing provisions of § 101–47.202–7, see subsection 101–47.202–2(b)(9).

Subpart 101–47.3—Surplus Real Property Disposal

7. Section 101–47.304–5 is revised to read as follows:

§ 101–47.304–5 Inspection.

All persons interested in the acquisition of surplus property available for disposal under this Subpart 101–47.3 shall, with the cooperation of the holding agency, where necessary, and with due regard to its program activities, be permitted to make a complete inspection of such property, including any available inventory records, plans, specifications, and engineering reports made in connection therewith, subject to any necessary restrictions in the interest of national security and subject to such rules as may be prescribed by the disposal agency.

(See § 101–47.304–13 and § 101–47.403.)

8. Section 101–47.304–13 is added to read as follows:

§ 101–47.304–13 Provisions relating to asbestos.

Where the existence of asbestos on the property has been brought to the attention of the disposal agency by the Standard Form 118 information provided in accordance with § 101–47.202–2)(b)(9), the disposal agency shall incorporate such information (less any cost or time estimates to remove the asbestos-containing materials) in any Invitation for Bids/Offers to Purchase and include the following:

Notice of the Presence of Asbestos—Warning!

(a) The Purchaser is warned that the property offered for sale contains asbestos-containing materials. Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, and building construction workplaces have been associated with asbestos-related diseases. Both the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.

(b) Bidders (Offerors) are invited, urged and cautioned to inspect the property to be sold prior to submitting a bid (offer). More particularly, bidders (offerors) are invited, urged and cautioned to inspect the property as to its asbestos content and condition and any hazardous or environmental conditions relating thereto. The disposal agency will assist bidders (offerors) in obtaining any authorization(s) which may be required in order to carry out any such inspection(s). Bidders (Offerors) shall be deemed to have relied solely on their own judgment in assessing the overall condition of all or any portion of the property including, without limitation, any asbestos hazards or concerns.

(c) No warranties either express or implied are given with regard to the condition of the property including, without limitation, whether the property does or does not contain asbestos or is or is not safe for a particular purpose. The failure of any bidder (offeror) to inspect, or to be fully informed as to the condition of all or any portion of the property offered, will not constitute grounds for any claim or demand for adjustment or withdrawal of a bid or offer after its opening or tender.

(d) the description of the property set forth in the Invitation for Bids (Offer to Purchase) and any other information provided therein with respect to said property is based on the best information available to the disposal agency and is believed to be correct, but an error or omission, including but not limited to the omission of any information available to the agency having custody over the property and/or any other Federal agency, shall not constitute grounds or reason for nonperformance of the contract of sale, or any claim by the Purchaser against the Government including, without limitation, any claim for allowance, refund, or deduction from the purchase price.

(e) The Government assumes no liability for damages for personal injury, illness, disability or death, to the Purchaser, or to the Purchaser's successors, assigns, employees, invitees, or any other person subject to Purchaser's control or direction, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the property which is the subject of this sale, whether the Purchaser, its successors or assigns has or have properly warned or failed properly to warn the individual(s) injured.

(f) The Purchaser further agrees that in its use and occupancy of the property it will comply with all Federal, state, and local laws relating to asbestos.

Dated: July 14, 1988.

John Alderson,

Acting Administrator of General Services.

[FR Doc. 88–17771 Filed 8–8–88; 8:45 am]

BILLING CODE 6820–96–M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program

AGENCY: Office of Personnel Management.

ACTION: Final rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is establishing a new office for filing applications or complaints under the Voting Rights Act of 1965, as amended. The Attorney General has determined that these designations are necessary to enforce the guarantees of the Fourteenth and Fifteenth Amendments to the Constitution.

DATES: This rule is effective August 9, 1988. In view of the need for its publication without an opportunity for prior comment, comments will still be considered. To be timely, comments must be received on or before September 8, 1988.

ADDRESS: Send or deliver comments to James Green, Associate General Counsel, Office of Personnel Management, Room 7353, 1900 E Street, NW., Washington, DC. 20415.

FOR FURTHER INFORMATION CONTACT: James Green, (202) 632–5087.

SUPPLEMENTARY INFORMATION: The Attorney General has designated Talbot County, Georgia, as an additional examination point under the provisions of the Voting Rights Act of 1965, as amended. He determined on August 4, 1988, that these designations are necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, OPM will appoint

Federal examiners to prepare and maintain lists of persons eligible to vote and Federal observers to observe local elections.

Under 5 U.S.C. 553(b)(3)(B), the Director finds that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because of OPM's legal responsibilities under 42 U.S.C. 1973e(a) and other parts of the Voting Rights Act of 1965, as amended, which require OPM, to publish counties certified by the U.S. Attorney General and locations within these counties where citizens can be federally listed and become eligible to vote, and where Federal observers can be sent to observe local elections.

Pursuant to 5 U.S.C. 553(d)(3), the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately in light of the pending elections to be held on August 9, 1988, in the subject counties, where Federal observers will observe elections under the authority of the Voting Rights Act of 1965, as amended.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, (February 17, 1981), Federal Regulation. OPM is required, pursuant to the Voting Rights Act of 1965, as amended, to give notice to the public of the time and place to file applications to vote. In order to carry out the intent of the Voting Rights Act, notice should be given prior to an election. Due to the impending election on August 9, 1988, section 8(a)(2) permits an exemption from the procedures outlined in Executive Order 12291.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it adds one new location to the list of counties in the regulations concerning OPM's responsibilities under the Voting Rights Act.

List of Subjects in 45 CFR Part 801

Administrative practice and procedure, Voting rights.

U.S. Office of Personnel Management.

Hugh Hewitt,

Deputy Director.

Accordingly, OPM is amending 45 CFR Part 801 as follows:

PART 801—VOTING RIGHTS PROGRAM

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

Authority: 5 U.S.C. 1103; secs. 7, 9, 79 Stat. 440, 411 (42 U.S.C.) 1973e, 1973g).

2. Section 801.202, Appendix A, is amended by adding alphabetically the Georgia county of Talbot to read as follows:

§ 801.202 Times and places for filing and forms of application.

* * * * *

Appendix A

* * * * *

Dates, Times, and Places for Filing

Georgia

County; Place for filing; Beginning Date

Talbot—Bruce Motel, Room 2, Washington St., Talbotton, Georgia 31827, August 9, 1988.

* * * * *

[FR Doc. 88-18026 Filed 8-8-88; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-329; RM-5699]

Radio Broadcasting Services; Wickenburg, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 287C2 for Channel 288A at Wickenburg, Arizona, and modifies the Class A license of Consolidated Communications Newwork, Inc. for Station KCIW-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 287C2 at Wickenburg are 34-02-49 and 112-48-21. With this action, the proceeding is terminated.

EFFECTIVE DATE: September 16, 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. 87-329, adopted July 6, 1988, and released August 3, 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 Arizona, is amended by revising the entry for Wickenburg by deleting Channel 288A and adding Channel 287C2.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88-17882 Filed 8-8-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-104; RM-5425, RM-5612, RM-5972, RM-5989, RM-5990]

Radio Broadcasting Services; Jennings, Erath, Mamou and Maurice, LA; and Groves and Nederland, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 266A to Mamou, Louisiana, as a first local FM service, at the request of Leonard Worden. This action also substitutes Channel 223C2 for Channel 221A at Groves and Channel 225C2 for Channel 224A at Jennings, and modifies the licenses of Stations KTFA(FM) and KJEF-FM to specify operation on the higher class channel, as requested by Voice in the Wilderness Broadcasting, Inc. and Jennings Broadcasting Company, Inc., respectively. In addition, in order to accomplish the substitution at Jennings Channel 299A is substituted for vacant but applied for Channel 225A at Erath, Louisiana. Both upgrades will provide their respective community with a first wide coverage area FM service. With this action, this proceeding is terminated.

DATES: Effective September 12, 1988; The window period for filing applications for Channel 266A at Momou, Louisiana, will open on September 13, 1988, and close on October 13, 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. 87-104, adopted July 13, 1988, and released July 29, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

The coordinates used in determining available sites for Channel 266A at Mamou are 30-37-54 and 92-25-12. Channel 223C2 can be used at the current transmitter site of Station KTFA(FM) at coordinates 30-01-45 and 93-52-59. Channel 225C2 at Jennings requires a 24.8 kilometers (15.4 miles) south of the city at coordinates 30-00-20 and 92-44-00. Further, this action denies the petitions for rule making filed by FoxCo Acquisition Corporation for the substitution of Channel 299A for Channel 292A at Maurice, Louisiana (RM-5972), and Jennings Broadcasting Company, Inc., for the allotment of Channel 223C2 at Jennings, Louisiana (RM-5425).

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[ADMENDED]

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

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

§ 73.202 [Amended]

2. In § 73.202(b), the table of FM allotments, is amended under Louisiana by adding Channel 266A at Mamou; deleting Channel 225A and adding Channel 299A for Erath; and deleting Channel 224A and adding Channel 225C2 at Jennings. The Table is also amended under Texas, by deleting Channel 221A and adding Channel 223C2 at Groves.

Steve Kaminer,

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

[FR Doc. 88-17679 Filed 8-8-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-417; RM-5931]

Television Broadcasting Services; Lima, OH, et al.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of WKBN Broadcasting Corporation, substitutes noncommercial educational Channel *61 for Channel *17 at Muncie, Indiana, and allots Channel 17 to Lima, Ohio, as the community's third local commercial television service. The Commission found that public interest benefits accruing from the provision of a third commercial service warranted the dereservation of existing Channel *17 at Muncie and its substitution with Channel *61. In addition, the Commission modified the licenses of Winnebago Television Corporation, Station WTVO, Channel 17—, Rockford, Illinois, and TV 17 Unlimited, Station WXMI, Channel 17, Grand Rapids, Michigan, by changing their offset designations to specify plus and minus offsets, respectively, in lieu of their present minus and zero offsets. With this action, this proceeding is terminated.

DATE: Effective September 12, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-417, adopted June 29, 1988, and released> July 28, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Channel 17 can be allotted to Lima, Ohio, in compliance with the Commission's minimum distance separation requirements with a site restriction of 32.1 kilometers (19.9 miles) southwest to avoid a short-spacing to Channel 16 at Detroit, Michigan, which is reserved for land mobile use, and to Station WXMI, Channel 17, Grand Rapids, Michigan. The coordinates for this allotment are North Latitude 40-35-18 and West Longitude 84-25-55. Channel *61 can be allotted to Muncie, Indiana, in compliance with the Commission's minimum distance separation requirements without a site restriction. The coordinates for this allotment are North Latitude 40-11-30 and West Longitude 85-23-12. Lima is located within the minimum co-channel separation distance to Cincinnati and Columbus, Ohio. Therefore, in light of the Commission's recent freeze on the filing of applications within certain metropolitan areas, including Cincinnati and Columbus, applications for this channel will not be accepted until further notice is given by the Commission.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Television Table of Allotments is amended as follows: Muncie, Indiana, is revised by deleting Channel *17 and adding Channel *61; Rockford, Illinois, is revised by deleting Channel 17— and adding Channel 17+; Grand Rapids, Michigan is revised by deleting Channel 17 and adding Channel 17—; and Lima, Ohio, is revised by adding Channel 17.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88-17674 Filed 8-8-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-397; RM-5961]

Radio Broadcasting Services; George West, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 281A to George West, Texas, as that community's first local FM service, at the request of Larry S. Tschirhart. The channel can be allocated in compliance with § 73.207 of the Commission's Rules. The coordinates used in determining the available site are 28-20-06 and 98-06-54. Concurrence by the Mexican government has been obtained. With this action, this proceeding is terminated.

DATES: Effective September 16, 1988; The window period for filing applications will open on September 19, 1988 and close on October 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. 87-397, adopted June 30, 1988, and released August 3, 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 Texas by adding Channel 281A to George West.

Steve Kaminer,

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

[FR Doc. 88–17883 Filed 8–8–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–276; RM–5716]

Radio Broadcasting Services; Seabrook, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 221C2 for Chanel 221A at Seabrook, Texas, and modifies the license of Station KRTS(FM) to specify operation on the higher class co-channel, at the request of KRTS, Inc. A site restriction of 20.3 kilometers (12.6 miles) southeast of Seabrook is required. The restricted site coordinates are 29–25–00 and 94–54–00. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 16, 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. 87–276, adopted July 14, 1988, and released August 3, 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 Texas, by removing Channel 221A and adding Channel 221C2 for Seabrook.

Steve Kaminer,

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

[FR Doc. 88–17884 Filed 8–8–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–452; RM–5970]

Radio Broadcasting Services; Ellensburg, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 276C2 for Channel 276A at Ellensburg, Washington, and modifies the license of Station KQBE(FM) to specify operation on the higher class co-channel, as requested by Lord Broadcasting Company. The community could be provided with its first wide coverage area FM service. The station's current transmitter site meets the Commission's minimum distance separation requirements, at coordinates 47–00–21 and 120–30–55. Concurrence has been obtained from the Canadian government. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 14, 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. 87–452, adopted June 30, 1988, and released August 1, 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 Washington, by deleting Channel 276A and adding Channel 276C2 at Ellensburg.

Steve Kaminer,

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

[FR Doc. 88–17885 Filed 8–8–88; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Selecting Early Hunting Seasons on Certain Migratory Game Birds in the United States, Including Alaska, and Puerto Rico and the Virgin Islands, for the 1988–89 Season.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks (i.e., the outer limits for dates and times when shooting may begin and end, hunting areas, and the numbers of birds which may be taken and possessed) for early-season migratory bird hunting regulations from which States and Puerto Rico and the Virgin Islands may select season dates and daily bag and possession limits for the 1988–89 season. These seasons may open prior to October 1, 1988, and apply to mourning doves; white-winged and white-tipped doves; band-tailed pigeons; rails; woodcock; snipe; common moorhens and purple gallinules; sea ducks (Atlantic Flyway only); experimental September duck seasons in Florida, Kentucky and Tennessee; experimental September Canada goose seasons in parts of Illinois, Michigan and Minnesota; sandhill cranes in the Central and Pacific Flyways; a special Canada goose season in southwestern Wyoming; extended falconry seasons; and migratory game birds in Alaska, Puerto Rico and the Virgin Islands.

DATES: Effective on August 9, 1988. Selected season dates are to be transmitted to the U.S. Fish and Wildlife Service (hereinafter the Service) for publication in the **Federal Register** as amendments to §§ 20.103 through 20.106 and 20.109 of 50 CFR 20.

ADDRESSES: Season selections from States are to be mailed to: Director (FWS/MBMO U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building—Room 536, Washington, DC 20240. Comments received are available for public inspection during normal business hours at the Service's office in Room 536, Matomic Building, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, Department of the Interior, Washington, DC 20240, telephone (202) 254–3207.

SUPPLEMENTARY INFORMATION: On March 9, 1988, the U.S. Fish and Wildlife Service published for public comment in the **Federal Register** (53 FR 7702) initial proposals to amend 50 CFR Part 20, with comment periods ending July 20, 1988, for Alaska, Puerto Rico, the Virgin Islands, and other early-season frameworks (except Hawaii where the comment period closed on June 22, 1988) and August 29, 1988, for late-season frameworks. The March 9, 1988, document dealt with establishment of seasons, limits and shooting hours for migratory game birds under Sections 20.101 through 20.107, 20.109, and 20.110 of Subpart K. A supplemental proposed rulemaking for both the early and late hunting season frameworks appeared in the **Federal Register** dated June 7, 1988 (53 FR 20874).

On June 22, 1988, a public hearing was held in Washington, DC, to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged and white-tipped doves, sandhill cranes and other species. The meeting was announced in the **Federal Register** on March 9, 1988 (53 FR 7702) and June 7, 1988 (53 FR 20874). Proposed hunting regulations were discussed for these species and for common snipe; rails; common moorhens and purple gallinules; experimental early duck seasons in Florida, Kentucky and Tennessee; experimental early September Canada goose seasons in parts of Illinois, Michigan and Minnesota; special sea duck seasons in the Atlantic Flyway; sandhill cranes, a special Canada goose season in southwestern Wyoming; extended falconry seasons and hunting regulations for Alaska, Puerto Rico and the Virgin Islands. Public comments on these matters were received.

On July 11, 1988, the Service published in the **Federal Register** (53 FR 26198) a third document in the series of proposed and final rulemaking documents. The third document dealt specifically with proposed frameworks for the 1988–89 season. When published in a fourth document as final frameworks, wildlife conservation agency officials may select season dates and bag limits for hunting certain migratory birds in their respective jurisdictions during the 1988–89 season.

This rulemaking is the fourth in the series and deals specifically with final frameworks for early-season migratory game bird hunting regulations from which wildlife conservation agency officials from the States, Puerto Rico and the Virgin Islands may select season dates and daily bag and possession limits for the 1988–89 season. These seasons may open prior to October 1, 1988, and apply to mourning, white-winged and white-tipped doves; band-tailed pigeons; rails; woodcock; snipe; common moorhens and purple gallinules; sea ducks (Atlantic Flyway only); experimental September duck seasons in Florida, Kentucky and Tennessee; experimental September Canada goose seasons in parts of Illinois, Michigan and Minnesota; sandhill cranes, a special Canada goose season in southwestern Wyoming; extended falconry seasons; and hunting regulations for Alaska, Puerto Rico and the Virgin Islands.

Review of Public Comments

The Service has already responded to earlier comments on proposed regulations published in the **Federal Register** on March 9, 1988 (53 FR 7702), and June 7, 1988 (53 FR 20874), and discussed at the June 22, 1988, public hearing in Washington, DC. These responses appeared in the **Federal Register** of June 7, 1988 (53 FR 20874), and July 11, 1988 (53 FR 26198). Additional comments received through July 22, 1988, relating to proposed early season frameworks are discussed here.

The comments are discussed in the same order as the numbered items to which they apply are listed in previous 1988 **Federal Register** publications.

6. September Teal Seasons

a. The Oklahoma Department of Wildlife Conservation, the Louisiana Wildlife and Fisheries Commission, the Texas Parks and Wildlife Department, and the Colorado Division of Wildlife all opposed the suspension of the September teal season. Oklahoma noted the closure penalizes States which have little opportunity to harvest blue-winged teal during the regular season and results in unwarranted differences in harvest opportunities among States. Oklahoma supports a reduced season combined with increased enforcement and believes such would maintain hunter support. Louisiana recognized the bluewing population was depressed but noted hunting mortality has little impact on bluewing population dynamics. The State supports a 3-day September teal season as opposed to suspension of same. Texas noted blue-winged teal have low harvest rates, the 1988 breeding population is similar to last year's, and suspension of the season which would maintain hunter interest and support for habitat programs. Colorado noted the September season offers about the only opportunity to harvest bluewings in mid-latitude States and suggests if a reduced harvest is necessary the Service should take action where the greatest harvest occurs. Colorado notes the bluewing breeding population increased (+1 percent) from last year and calls for the Service to consider production information before actually suspending the season. The State will support a shorter teal season if increased protection of bluewings is in order. They also feel it is important to continue hunter opportunity and ensure hunter support for programs to enhance the resource. Thirteen other individuals also supported a continuation of the September teal seasons—nearly all suggested a 3-day season with a 4-bird bag. Most felt such a season would not harm teal populations and would maintain hunter interest and support.

Response. The service again notes the blue-winged teal breeding population has been depressed for several years. Further, current survey information suggests the fall flight of the species is likely to be poor. While a shortened season would be expected to reduce the harvest, such a season might still result in a substantial kill. Under these circumstances the Service believes it inappropriate to identify bluewings with added harvest opportunity in the form of September seasons and bonus birds. The Service believes hunters will recognize their continued support for habitat and management programs is needed more than ever during this period of extended drought and accelerating habitat destruction.

b. The Illinois Department of Conservation, the Ohio Department of Natural Resources, the Wisconsin Department of Natural Resources, the Minnesota Waterfowlers Association, the Humane Society of the United States, and 6 individuals recommended

that the September teal season not be offered in 1988. By inference, an additional 8 individuals, who called for a closed duck season, are considered as being opposed to a September teal season in 1988.

Response. These frameworks do not offer a September teal season for the 1988–89 hunting season.

8. Experimental September Duck Seasons

a. The Florida Game and Fresh Water Fish Commission noted their considerable previous justifications for operational status for the State's September duck season. The State, however, intends to defer their efforts for operational status, but notes this does not change their position.

Response. The Service understands Florida's interest in operational status for the September duck season. We appreciate the intent to defer this issue until another year. In the June 7, 1988, **Federal Register** (53 FR 20876), the Service noted that the depressed status of waterfowl populations might require review of harvest management strategies such as September duck seasons. There were no proposed changes in item 8 in the July 11, 1988, **Federal Register** on proposed frameworks for early seasons because the fall flight information was still incomplete. Subsequently, the forecast contained in the July 25, 1988, status report was for a reduced fall flight. As a result it was decided to be more restrictive in regard to all September duck seasons. Therefore, one result is that the Service has established a bag limit of 3 wood ducks only per day for the 5-day 1988 September duck season in Florida. The intent is to limit the take of all ducks.

b. Iowa expressed disappointment in the Service's proposal to cancel the State's September duck season option. They note the State uses regular season days as opposed to bonus days for their September hunt and that harvest opportunity on bluewings increased as intended. The State supports efforts to reduce the bluewing harvest through curtailment of bonus seasons. The State calls for a review of regulations and asks that when regulations relax, Iowa be allowed to return to the option of September seasons.

Response. The Service recognizes Iowa's position in regard to their early September duck season. However, the September season does focus harvest more on bluewings than do later seasons. The Service continues to recommend suspension of the September duck season option in Iowa.

c. The Missouri Department of Conservation supports the suspension of the September teal season. The State notes the early duck season in Iowa was suspended while those in Kentucky, Tennessee and Florida were continued with restrictions. Missouri finds these actions inconsistent and urges more equitable application of closures or restrictions among all States.

Response. The Service appreciates the view that the regulations may not appear entirely consistent but believes the restrictions imposed in this document will reduce an already small harvest of ducks other than wood ducks in Kentucky, Tennessee and Florida.

d. The Wildlife Management Institute questions whether any blue-winged teal should be permitted in the Kentucky, Tennessee and Florida September seasons. The Illinois Department of Conservation noted their earlier call for elimination of all special seasons. Illinois believes that if such special seasons are continued, that blue-winged teal should not be permitted in the bag.

Response. In light of the status of waterfowl outlined in the response to 8.a. above, the Kentucky and Tennessee experimental September season bag limit is reduced to 2 wood ducks per day. The season length is 5 days. The elimination of ducks other than wood ducks will reduce the harvest of other ducks substantially.

15. Tundra Swans

As of July 22 the Service has received an additional 300 letters and postcards from individuals urging that swans not be hunted.

Response. The Service offers Alaska frameworks for an experimental swan season in Game Management Unit 22 as discussed in the July 11, 1988, **Federal Register** (53 FR 26204). Other swan seasons, existing or proposed, will be addressed in the late-season regulations cycle.

22. Band-tailed Pigeons

The Humane Society of the United States believes the restrictions proposed are not sufficient to address the serious decline in band-tailed pigeons. Stating that hunting kill is the only form of mortality that can be controlled, the Humane Society calls for a closure of the pigeon season.

Response. The Service notes that 1988 is the second year of a planned 3-year evaluation of restrictive regulations for Pacific coast bandtail populations. Bag limits and season length were curtailed earlier and additional restrictions in the form of a delay in the opening framework to September 15 was proposed for 1988. The Service believes these retrictions are adequate to safeguard the resource. Therefore these final frameworks contain provisions for a restrictive season on Pacific coast band-tailed pigeons.

23. Mourning Doves

Western Management Unit

Comments were received from the Arizona Game and Fish Commission and the Pacific Flyway Council, requesting that the Service reconsider the Council recommendation to alter mourning dove frameworks in the Western Management Unit (WMU) for 1988. Specifically, the Council proposed the following:

Arizona and California—A 60-day season to be split between two periods, September 1–15 and November 1—January 15. Bag and possession limits: aggregate mourning and white-winged dove limits not to exceed 10/20 (in Arizona the aggregate bag limit may not include more than 6/12 white-winged doves and the white-winged dove season to be concurrent with the first split only).

Washington, Oregon, Idaho, Utah, and Nevada—A 30-consecutive day season between September 1—January 15. Bag and possession limits, 10/20 mourning doves (in Nevada, the daily bag and possession limits of mourning and white-winged doves may not exceed 10/20, respectively, singly or in the aggregate).

Arizona referenced a recent publication in which evidence was provided that discrete mourning dove populations occurred in coastal and interior States, and therefore uniform regulations throughout the WMU are unnecessary. Further, differential frameworks for mourning dove seasons have been allowed in the WMU in the past. Both comments stated that the proposed 15-day extension in the second half of a split season in Arizona and California is estimated to result in a 33 percent increase in hunting opportunity while increasing the harvest less than 5 percent.

Response. Mourning dove populations in the WMU have experienced a significant long-term downward trend, both in the interior and coastal States. In 1987, the Service, on recommendation by the Pacific Flyway Council, restricted mourning dove framework dates and bag limits in the WMU to regulate the harvest at a level commensurate with the lower population size. The restrictions were to be in effect for a 3-year period (1987–89). Upon reconsideration of the current Council proposal, the Service agrees that the

modest added hunting opportunity during November 1—January 15 will not increase harvest measureably. More importantly, the Council proposal closes the season between September 15 and November 1 in Arizona and California. This closed period protects mourning doves migrating from northern areas from added harvest in Arizona and California—a principal aim of the original restrictions that was not met with the proposed regulations. Therefore, the Service accepts the Council recommendation and will continue the revised frameworks through 1989, pending results of call-count and harvest surveys conducted to monitor annual status of mourning doves in the WMU.

b. One individual from Texas voiced his opposition to all day dove hunting.

Response. The Service notes that States now have an option to select half or whole day hunting of doves. The commentor should make his views known to the Texas Parks and Wildlife Department for consideration during their season selection process.

24. White-winged Doves

The Texas Parks and Wildlife Department expressed disappointment with the Service proposal to continue the aggregate 10-bird bag limit, including no more than 2 mourning and 2 white-tipped doves, during the special whitewing season in south Texas. The State believes their proposal for a more liberal aggregate bag limit of 12 with no more than 2 white-tipped doves is a reasonable and biologically sound response to problems that have developed in the Lower Rio Grande Valley. Texas believes there is no evidence the proposed bag limits would be detrimental to the mourning dove breeding population. Further, the State cites a Service study that showed no significant difference in daily survival rates of September mourning dove nestlings in hunting or nonhunted areas. Texas seeks reconsideration of their white-winged dove aggregate bag proposal.

Response. The Service refers to its statement in the July 11, 1988, **Federal Register** (53 FR 26205), that the white-winged dove population in Texas declined substantially after the 1983 freeze that affected nesting habitat, and that populations have not yet fully recovered. In addition, during the early 1980s when more liberal regulations were permitted, the harvest of mourning doves increased markedly during the early whitewing season at a time when a substantial segment of the mourning dove population is still nesting in Texas. Considering the possible biological consequences to these populations, the Service does not agree that a more liberal aggregate dove bag limit for 1988 would be a reasonable and proper response to a problem that is largely socioeconomic in nature.

The Texas Parks and Wildlife Department cites the 1987 nationwide mourning dove nesting study to support its contention that September hunting has no effect on dove nesting. This Service study was conducted over a wide geographical area including Texas, but it did not specifically address lower south Texas where the special white-winged dove hunt is held. Conversely, a study conducted by Texas Parks and Wildlife Department biologists K.E. Gamble and T.L. Clark in 1966–71 revealed that unlike doves in most areas of Texas, as many as 21 percent of immature mourning doves had hatched after September 1 in south Texas. The Service feels that the heavy harvest of mourning doves projected to occur under the Texas proposal (315,000 birds) could be detrimental to production and population size of mourning doves in south Texas. This is the reason that the September 20 opening date framework has been established for the regular mourning dove season in the South Zone of Texas.

25. Migratory Bird Hunting in Alaska

a. The Alaska Department of Fish and Game disagreed with the proposed frameworks for bag limits on ducks in Alaska, especially those limits on pintails and canvasbacks. They reiterated their earlier arguments that further harvest restrictions in the bag limits are unwarranted and such limits should include 3 pintail and 3 canvasback per day. They reasoned that no change was warranted because hunters in Alaska, where seasons are brief due to weather, would be unduly penalized if bag limits were reduced. They noted their harvest is small compared to that in other States and felt that restrictions in States where harvests are large would be more effective. Also, during Alaska's early seasons many male ducks are still in eclipse plumage and species identification is more difficult than in other States where seasons are later.

Response. The Service's position concerning bag limits for ducks in Alaska was discussed in the July 11, 1988, **Federal Register** (at 53 FR 26205). Harvests of any and all species of ducks within a particular state may seem inconsequential when compared with harvests in other states or the total harvest. Nonetheless, conservative measures often must be directed throughout regions, flyways and the nation. The situation with canvasbacks is clear since numbers for the Western Population are well below the minimum threshold that triggers a season closure. Current information on status of pintails and other ducks indicates restrictive regulations are warranted in 1988. While Alaska's harvest is smaller than some western States, a 1971–80 harvest study report indicates it ranked 33 among 49 States in total duck harvest, 20 in pintail harvest, and 39 in canvasback harvest and the average seasonal bag of an Alaska hunter was close to the national average.

b. The Alaska Outdoor Council, Inc., echoed the comments of the Alaska Department of Fish and Game concerning the proposed frameworks. The Outdoor Council expressed the hope that conservative measures would be directed at areas where most direct benefits can be obtained. The Outdoor Council proposed frameworks to include 3 pintail per day with 9 in possession, and 3 canvasback per day with 9 in possession.

Response. The Service believes these concerns are addressed in the response to 25.a. above and the July 11, 1988, **Federal Register** (53 FR 26205).

26. Migratory Game Birds in Puerto Rico and the Virgin Islands

The Humane Society of the United States noted their comments on migratory bird frameworks, in Puerto Rico and the Virgin Islands, and mourning doves were submitted to the Service on June 22, 1988.

Response. The Service addressed the Humane Society's comments in the July 11, 1988, **Federal Register** (53 FR 26205) and reaffirms the information provided therein.

27. Migratory Game Bird Seasons for Falconers

Forty-seven individuals and/or falconry regional associations have voiced support for the proposed extension of the frameworks for falconry seasons citing limited impact on the migratory bird resource and added safety to falconer's birds. The Humane Society of the United States opposes the framework extension for falconers. The Humane Society believes removing raptors from the wild for falconry is a misguided use of a protected resource and the extension of the falconry seasons will provide greater incentive for such taking of raptors from the wild. The Humane Society asks that the framework extension be dropped.

Response. The Service notes the impact of falconry on target or prey species populations is negligible. The

taking of raptors from the wild for falconry is a permitted activity that is closely regulated. The Service believes these final frameworks are not the proper forum to determine the propriety of falconry. In view of these considerations the frameworks for falconry are extended.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–54)" was filed with the Council on Environmental Quality (CEQ) on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). A supplement to the FES, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)", was filed with CEQ on June 9, 1988, and Notice of Availability was published in the **Federal Register** of June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727).

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and shall] "insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of [critical] habitat * * *" The Service therefore initiated Section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 17, 1988, the Chief, Division of Endangered Species and Habitat Conservation, concluded that the proposed actions were not likely to jeopardize the continued existence of listed species.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinions resulting from its consultation under section 7 are considered public documents and are available for inspection in the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

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

In the **Federal Register** dated March 9, 1988 (53 FR 7702), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. these included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. These regulations contain no collection of information subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

In the **Federal Register** dated March 9, 1988, (53 FR 7709) the Service stated that it planned to publish its Memorandum of Law for the 1988–89 migratory bird hunting regulations with its first final rulemaking.

Memorandum of Law. Section 4 of Executive Order 12291 requires that certain determinations be made before any final major rule may be approved. Section 4(a) specifies that the regulation must be clearly within the authority of law and consistent with congressional intent, and that a memorandum of law be provided to support that determination. Also, the agency must state that the factual conclusions upon which the law is based have substantial support in the agency record and that full attention has been given to public comments in general, and to comments of persons directly affected by the rule in particular.

The development of the annual migratory bird hunting regulations is provided for under Section 3 of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 701–708h). Such regulations have been promulgated annually since 1918. They appear in 50 CFR Part 20, Subpart K. Congressional support for the development of these rules and ancillary activities involved in their development are reflected in the U.S. Fish and Wildlife Service's budget. Among these activities are biological surveys, hunter activity and harvest surveys, research investigations, law enforcement, and administrative costs associated with the development and publication of the proposed and final rules. Many other Service activities, such as the acquisition and management of habitats for migratory birds, indirectly assist in maintaining the migratory bird resource at levels which allow reasonable sport hunting harvest.

In developing its annual hunting rules for 1988–89, the Service has published two proposed rules for public comment and conducted one public hearing to facilitate public input into the rulemaking process. Four additional proposed and final rulemakings, and another public hearing, are included in the remaining schedule for establishing the annual hunting regulations for 1988–89. Numerous public comments summarized and responded to in **Federal Registers** listed in the preamble of this document describe the Service's consideration of the impacts of its proposed rules on the public. Many of these comments originated from affected State conservation agencies, while others were submitted by the affected public. In general, the comments supported the Service's initial or supplementary regulatory proposals. Comments which do not support proposed Service action have been adequately addressed. Additional public comments are invited and will be addressed in subsequent **Federal Register** documents. The complete administrative record, including copies of public comments, is available for inspection at the Office of Migratory Bird Management.

Consequently, the Department has determined that it has fulfilled requirements of Section 4 of Executive Order 12291 and the Migratory Bird Treaty Act in developing the 1988–89 migratory bird hunting regulations which are adequately supported by the Service's records.

Authorship

The primary author of this final rulemaking is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rules were published March 9, June 7, and July 11, the Service

established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that States would have insufficient time to select their season dates, shooting hours and limits; to communicate those selections to the Service; and finally establish and publicize the necessary regulations and procedures to implement their decisions.

Therefore, the Service under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended, (40 Stat. 755; 16 U.S.C. 701–708h), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials may select hunting season dates and other options. Upon receipt of season and option selections from State officials, the Service will publish in the **Federal Register** a final rulemaking amending 50 CFR Part 20 to reflect seasons, limits, and shooting hours for the contiguous United States, Alaska, Puerto Rico and the Virgin Islands for the 1988–89 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act and these frameworks will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation Wildlife.

The rules that eventually will be promulgated for the 1988–89 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 701–708h); the Fish and Wildlife Improvement Act of 1978 (92 Stat. 3112; 16 U.S.C. 712); and the Alaska Game Act of 1925 (43 Stat. 739, as amended, 54 Stat. 1103–04).

Final Regulations Frameworks for 1988–89 Early Hunting Seasons on Certain Migratory Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of Interior has approved final frameworks for season lengths, bag limits, shooting hours, and outside dates within which States may select seasons for mourning doves, white-winged doves, white-tipped doves, band-tailed pigeons, rails, woodcock, snipe, moorhens and gallinules; experimental September duck seasons in Florida, Tennessee and Kentucky; sea ducks (scoter, eider, and oldsquaw) in certain defined areas of the Atlantic Flyway; experimental September Canada goose seasons in Michigan, Minnesota, and Illinois; sandhill cranes; special Canada Goose season in Wyoming; extended falconry seasons; and migratory birds in Alaska, Puerto Rico and the Virgin Islands. For the guidance of conservation agencies, these frameworks are summarized below.

Any State desiring its hunting seasons for mourning doves, white-winged doves, white-tipped doves, band-tailed pigeons, rails, woodcock, common snipe, common moorhens and purple gallinules, sandhill cranes or extended falconry seasons to open in September must make its selection no later than August 10, 1988. States desiring these seasons to open after September 30 may make their selections at the time they select regular waterfowl seasons. Season selections for the six States offered experimental September waterfowl seasons and Wyoming's special Canada goose season must also be made by August 10, 1988.

Atlantic Flyway coastal States desiring their seasons on sea ducks in certain defined areas to open in September must make their selection no later than August 10, 1988. Those desiring this season to open after September may make their selections when they select their regular waterfowl seasons.

Outside Dates: All dates noted are inclusive.

Shooting Hours: Between ½ hour before sunrise and sunset daily for all species except as noted below. The hours noted here and elsewhere also apply to hawking (taking by falconry).

Mourning Doves

Outside Dates: Between September 1, 1988, and January 15, 1989, except as otherwise provided, States may select hunting seasons and bag limits as follows:

Eastern Management Unit

(All States east of the Mississippi River and Louisiana)

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 70 days with bag and possession limits of 12 and 24, respectively,

or

Not more than 60 days with bag and possession limits of 15 and 30, respectively. Hunting seasons may be split into not more than 3 periods under either option.

Shooting Hours: Between ½ hour before sunrise and sunset daily.

Zoning: Alabama, Georgia, Illinois, Louisiana and *Mississippi*, may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:

Alabama—South Zone: Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale, Houston and Henry Counties. North Zone: Remainder of the State.

Georgia—The Northern Zone shall be that portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County, thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the southern border of Jeff Davis and Appling Counties; thence north along the eastern border of Appling County to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence east along the northern border of Evans to Bulloch County; thence north along the western border of Bulloch County to Highway 301; thence northeast along Highway 301 to the South Carolina line.

Illinois—U.S. Highway 36.

Louisiana—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississippi—U.S. Highway 84.

B. Within each zone, these States may select hunting seasons of not more than 70 days (or 60 under the alternative) which may be split into not more than 3 periods.

C. The hunting seasons in the South Zones of Alabama, Georgia, Louisiana and Mississippi may commence no earlier than September 20, 1988.

D. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

(Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas and Wyoming)

Hunting Seasons and Daily Bag and Possession Limits: Not more than 70 days with bag and possession limits of 12 and 24, respectively,

or

Not more than 60 days with bag and possession limits of 15 and 30, respectively. Hunting seasons may be split into not more than 3 periods under either option.

Texas Zoning:—As an alternative to the basic frameworks, Texas may select hunting seasons for each of 3 zones described below.

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Interstate Highway 20; northeast along Interstate Highway 20 to Interstate Highway 30 at Fort Worth; northeast along Interstate Highway 30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148, north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. 90 to San Antonio; then east on Interstate 10 to Orange, Texas.

Special White-Winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. Highway 90 to Uvalde, south on U.S. Highway 83 to State Highway 44; east along State Highway 44 to State Highway 16 at Freer; south along State Highway 16 to State Highway 285 at Hebbronville; east along State Highway 285 to FM 1017; southeast along FM 1017 to State Highway 186 at Linn; east along State Highway 186 to the Manfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Central Zone—That portion of the State lying between the North and South Zones. Hunting seasons in these zones are subject to the following conditions:

A. The hunting season may be split into not more than 2 periods, except that, in that portion of Texas where the special 4-day white-winged dove season is allowed, a limited mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves (see white-winged dove frameworks).

B. Each zone may have a season of not more than 70 days (or 60 under the alternative). The North and Central zones may select a season between September 1, 1988 and January 25, 1989; the South zone between September 20, 1988 and January 25, 1989.

C. Except during the special 4-day white-winged dove season in the South Zone, each zone may have an aggregate daily bag limit of 12 doves, (or 15 under the alternative), no more than 2 of which may be white-winged doves and no more than 2 of which may be white-tipped doves. The possession limit is double the daily bag limit.

D. Regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit

(Arizona, California, Idaho, Nevada, Oregon, Utah and Washington)

Hunting Seasons, and Daily Bag and Possession Limits

Idaho, Nevada, Oregon, Utah and Washington—Not more than 30 consecutive days between September 1, 1988 and January 15, 1989. Bag and possession limits, 10/20 mourning doves (in Nevada, the daily bag and possession limits of mourning and white-winged dove may not exceed 10/20, respectively, singly or in the aggregate).

Arizona and California—Not more than 60 days to be split between two periods, September 1–15, 1988, and November 1, 1988—January 15, 1989. Bag and possession limits: in Arizona the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 6 may be white-winged doves. The possession is 20 mourning and white-winged doves in the aggregate of which no more than 12 may be white-winged doves. In California the bag and possession limit is 10 and 20 singly or in the aggregate.

White-Winged Doves

Outside Dates: Arizona, California, Nevada, New Mexico, and *Texas* (except as shown below) may select hunting seasons between September 1 and December 31, 1988. *Florida* may select its hunting season between September 1, 1988 and January 15, 1989.

Arizona may select a hunting season of not more than 30 consecutive days running concurrently with the mourning dove season. The daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate, no more than 6 of which may be white-winged doves, and a possession limit twice the daily bag limit after the opening day.

In the *Nevada* counties of Clark and Nye, and in the *California* counties of Imperial, Riverside and San Bernardino, the aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, respectively, and run concurrently with the season on mourning doves.

New Mexico May select a hunting season with daily bag and possession limits not to exceed 12 and 24 (or 15 and 30 if the 60-day option for mourning doves is selected) white-winged and mourning doves, respectively, singly or in the aggregate of the 2 species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 4 days for the special white-winged dove area of the South Zone. The daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate including no more than 2 mourning doves and 2 white-tipped doves per day; and the possession limit may not exceed 20 white-winged, mourning and white-tipped doves in the aggregate including no more than 4 mourning doves and four white-tipped doves in possession.

and

In addition, *Texas* may also select a white-winged dove season of not more than 70 days (or 60 under the alternative for mourning doves) to be held between September 1, 1988, and January 25, 1989, and coinciding with the mourning dove season. The daily bag limit may not exceed 12 white-winged, mourning and white-tipped doves (or 15 under the alternative) in the aggregate, of which not more than 2 may be white-winged doves and not more than 2 of which may be white-tipped doves. The possession limit may not exceed 24 white-winged, mourning and white-tipped doves (or 30 under the alternative) in the aggregate, of which not more than 4 may be white-winged doves and not more than 4 of which may be white-tipped doves.

Florida may select a white-winged dove season of not more than 70 days (or 60 under the alternative for mourning doves) to be held between September 1, 1988, and January 15, 1989, and coinciding with the mourning dove season. The aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24 (or 15 and 30 if the 60-day option for mourning doves is selected); however, for either option, the bag and possession limits of white-winged doves may not exceed 4 and 8, respectively.

Band-Tailed Pigeons

Pacific Coast States and Nevada: California, Oregon, Washington and the Nevada counties of Carson City, Douglas, Lyon, Washoe, Humboldt, Pershing, Churchill, Mineral and Storey.

Outside Dates: Between September 15, 1988, and January 1, 1989.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 16 consecutive days, with a bag and possession limit of 4.

Zoning: California may select hunting seasons of 16 consecutive days in each of the following two zones:

1. In the counties of Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama and Trinity; and

2. The remainder of the State.

Four-Corners States: Arizona, Colorado, New Mexico and Utah.

Outside Dates: Between September 1 and November 30, 1988.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 30 consecutive days, with bag and possession limits of 5 and 10, respectively.

Areas: These seasons shall be open only in the areas delineated by the respective States in their hunting regulations.

Zoning: New Mexico may be divided into North and South Zones along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and south along Interstate Highway 25 from Socorro to the Texas State line. Hunting seasons not to exceed 20 consecutive days may be selected between September 1 and November 30, 1988, in the North Zone and October 1 and November 30, 1988, in the South Zone.

Rails

(Clapper, King, Sora and Virginia)

Outside Dates: States included herein may select seasons between September 1, 1988, and January 20, 1989, on clapper, king, sora and Virginia rails as follows:

Hunting Seasons: The season may not exceed 70 days. Any State may split its season into two segments.

Clapper and King Rails

Daily Bag and Possession Limits: In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, 10 and 20 respectively, singly or in the aggregate of these two species. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, 15 and 30, respectively, singly or in the aggregate of the two species.

Sora and Virginia Rails

Daily Bag and Possession Limits: In the Atlantic, Mississippi and Central [1] Flyways and portions of Colorado, Montana, New Mexico and Wyoming in the Pacific Flyway[2], 25 daily and 25 in possession, singly or in the aggregate of the two species.

Woodcock

Outside Dates: States in the Atlantic Flyway may select hunting seasons between October 1, 1988, and January 31, 1989. States in the Central and Mississippi Flyways may select hunting seasons between September 1, 1988, and February 28, 1989

Hunting Seasons, and Daily Bag and Possession Limits: In the Atlantic Flyway, seasons may not exceed 45 days, with bag and possession limits of 3 and 6, respectively; in the Central and Mississippi Flyways, seasons may not exceed 65 days, with bag and possession limits of 5 and 10, respectively. Season may be split into two segments.

Zoning: New Jersey may select seasons by north and south zones divided by State Highway 70. The season in each zone may not exceed 35 days.

Common Snipe

Outside Dates: Between September 1, 1988, and February 28, 1989. In *Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland* and *Virginia* the season must end no later than January 31.

Hunting Seasons, and Daily Bag and Possession Limits: Seasons may not exceed 107 days in the Atlantic, Mississippi and Central Flyways and 93 days in Pacific Flyway portions of Montana, Wyoming, Colorado and New Mexico. In the remainder of the Pacific Flyway the season shall coincide with the duck seasons. Seasons may be split into two segments. Bag and possession limits are 8 and 16, respectively.

Common Moorhens and Purple Gallinules

Outside Dates: September 1, 1988, through January 20, 1989, in the Atlantic and Mississippi Flyways September 1, 1988, through January 22, 1989, in the Central Flyway. States in the Pacific Flyway must select their hunting season to coincide with their duck seasons.

Hunting Seasons, and Daily Bag and Possession Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi and Central Flyways; in the Pacific Flyway seasons must be the same as the duck seasons. Seasons may be split. Bag and possession limits are 15 and 30 common moorhens and purple gallinules, singly or in the aggregate of the two species, respectively; except the daily bag and possession limits in the Pacific Flyway may not exceed 25 coots and common moorhens, singly or in the aggregate of the two species.

Sandhill Cranes

Regular Seasons in the Central Flyway

Seasons not to exceed 58 days between September 1, 1988, and February 28, 1989, may be selected in the following States: Colorado (the Central Flyway portion except the San Luis Valley); Kansas; Montana (the Central Flyway portion except that area south of I–90 and west of the Bighorn River); North Dakota (west of U.S. 281); South Dakota; and Wyoming (in the counties of Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte and Weston).

For the remainder of the flyway, seasons not to exceed 93 days between September 1, 1988 and February 28, 1989, may be selected in the following States: New Mexico (the counties of Chaves, Curry, DeBaca, Eddy, Lea, Quay and Roosevelt); Oklahoma (that portion west of I–35); and Texas (that portion west of a line from Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to Sonora; U.S. 277 to Abilene; Texas 351 to Albany; U.S.

[1] The Central Flyway is defined as follows: Colorado (east of the Continental Divide), Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico (east of the Continental Divide but outside the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas and Wyoming (east of the Continental Divide).

[2] The Pacific Flyway is defined as follows: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade Meagher and Park, and all counties west thereof.

283 to Vernon; and U.S. 183 to the Texas-Oklahoma boundary).

Bag and Possession Limits: 3 and 6, respectively.

Permits: Each person participating in the regular sandhill crane seasons must obtain and have in his possession while hunting a valid Federal sandhill crane hunting permit.

Special Seasons in the Central and Pacific Flyways

Arizona, Colorado, Idaho, Montana, New Mexico, Utah and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (as described in a management plan approved March 22, 1982 (revised July 28, 1987), by the Central and Pacific Flyway Councils) subject to the following conditions:

1. Outside dates are September 1—November 30, 1988 except September 1, 1988—January 31, 1989, in the Hatch-Deming Area (Zone) in New Mexico (Sierra, Luna, and Dona Ana Counties).

2. Season(s) in any State or zone may not exceed 30 days.

3. Daily bag limits may not exceed 3 and season limits may not exceed 9.

4. Participants must have in their possession while hunting a valid permit issued by the appropriate State.

5. Numbers of permits, areas open and season dates, protection plans for other species, and other provisions of seasons are consistent with the management plan and approved by the Central and Pacific Flyway Councils.

6. Seasons in the Middle Rio Grande Valley zone and the Hatch-Deming Zone in New Mexico and in Utah will be experimental.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15, 1988, and January 20, 1989.

Hunting Seasons, and Daily Bag and Possession Limits: Not to exceed 107 days, with bag and possession limits of 7 and 14, respectively, singly or in the aggregate of these species.

Bag and Possession Limits During Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may set, in addition to the limits applying to other ducks during the regular duck season, a daily limit of 7 and a possession limit of 14 scoter, eider and oldsquaw ducks, singly or in the aggregate of these species.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut and New York; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island and emergent vegetation in Delaware, Maryland, North Carolina and Virginia; and provided that any such areas have been described, delineated and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks and they must be included in the regular duck season convention or point-system daily bag and possession limits.

Deferred Selection: Any State desiring its sea duck season to open in September must make its selection no later than August 10, 1988. Any State desiring its sea duck season to open after September may make its selection at the time it selects its waterfowl season.

Special September Duck Seasons

Florida September Duck Season: An experimental 5-consecutive day duck season may be selected in September, the daily bag limit will be 3 wood ducks and the possession limit will be double the daily bag limit.

Tennessee and Kentucky September Duck Seasons: Experimental 5-consecutive-day duck seasons may be selected in September by Tennessee and Kentucky. The daily bag limit will be 2 wood ducks and the possession limit will be double the daily bag limit.

Special Early-September Canada Goose Seasons

Experimental Canada goose seasons of up to 10 consecutive days may be selected in September by Michigan, Illinois, and Minnesota subject to the following conditions:

1. Outside dates for the season are September 1–10, 1988.

2. The daily bag and possession limits will be no more than 5 and 10 Canada geese, respectively.

3. Areas open to the hunting of Canada geese are as follows:

Michigan: Lower Peninsula—all areas except the Shiawassee River, Allegan, Lapeer and Muskegon State Game Areas (SGA), the Shiawassee National Wildlife Refuge, that portion of the Maple River SGA east of State Road, that portion of the Pointe Mouillee SGA south of the Huron River, Muskegon county Wastewater Area, and the Fish Point and Nayanquing Point Wildlife Areas.

Upper Peninsula—that area bounded by a line beginning at the Michigan/Wisconsin border in Green Bay and extending north through the center of Little Bay De Noc and the center of White Fish River to U.S. Highway 2, east along U.S. Highway 2 to Interstate Highway 75, north along Interstate Highway 75 to State Highway 28, west along State Highway 28 to State Highway 221, then north along State Highway 221 to Brimley, then north to the Michigan/Ontario border.

Illinois: McHenry, Lake, Kane, DuPage, Cook, Kendall, Grundy, Will, and Kankakee Counties.

Minnesota: All or portions of Anoka, Washington, Ramsey, Hennepin, Carver, Scott and Dakota Counties.

4. Areas open to hunting must be described, delineated and designated as such in each State's hunting regulations.

Wyoming may select a September season for Canada geese subject to the following conditions:

1. The season must be concurrent with the September Sandhill crane season.

2. Outside dates for the season(s) are September 1–22, 1988.

3. Hunting will be by State permit.

4. No more than 60 permits may be issued for the Salt River (Star Valley) area in Lincoln County. Each permittee may take 2 Canada geese per season.

5. No more than 75 permits may be issued in the Eden-Farson Agricultural Project in Sweetwater and Sublette Counties, each permittee may take no more than 1 goose per season, and the season may not exceed 14 days.

Special Falconry Regulations

Extended Seasons: Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season not exceeding 107 days for taking migratory game birds in accordance with the following:

Framework Dates: Seasons must fall between September 1, 1988 and March 10, 1989.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

Regulations Publication: Each State selecting the special season must inform the Service of the season dates and publish said regulations.

Regular Seasons: General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Note.—In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September seasons, special scaup season, special scaup and goldeneye season or falconry season) exceed 107 days for a species in one geographical area. The extension of this framework to include the period September 1, 1988–March 10, 1989, is considered tentative, and will be evaluated in cooperation with States offering such extensions after a period of several years.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Alaska, 1988–1989

Outside Dates: Between September 1, 1988, and January 26, 1989, Alaska may select seasons on waterfowl, snipe, cranes, and tunda swans subject to the following limitations:

Shooting hours: One-half hour before sunrise to sunset daily.

Hunting seasons

Ducks, geese and brant—107 consecutive days for ducks, geese, and brant in each of the following: North Zone (State Game Management Units 11–13 and 17–26); Gulf Coast Zone (State Game Management Units 5–7, 9, 14–16, and 10—Unimak Island only); Southeast Zone (State Game Management Units 1–4); Pribilof and Aleutian Islands Zone (State Game Management Unit 10—except Unimak Island); Kodiak Zone (State Game Management Unit 8). The season may be split without penalty in the Kodiak Zone. *Exceptions:* The season is closed on Canada geese from Unimak Pass westward in the Aleutain Island chain. Throughout the State there is no open hunting season for Aleutain Canada geese, cackling Canada geese and emperor geese.

Snipe and sandhill cranes—An open season concurrent with the duck season.

Daily Bag and Possession Limits

Ducks—Except as noted, a basic daily bag limit of 5 and a possession limit of 15 ducks. Daily bag and possession limits in the North Zone are 8 and 24, and in the Gulf Coast Zone they are 6 and 18, respectively. The basic limits may not include more than 2 pintails daily and 6 pintails in possession. There is no open season on canvasback. In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, eider, oldsquaw, harlequin, and common and red-breasted mergansers, singly or in the aggregate of these species.

Geese—A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession may be greater white-fronted or Canada geese, singly or the aggregate of these species.

Brant—A daily bag limit of 2 and a possession limit of 4.

Common snipe—A daily bag limit of 8 and a possession limit of 16.

Sandhill cranes—A daily bag limit of 3 and a possession limit of 6.

Tundra swans—In Game Management Unit 22 an experimental open season for tundra swans may be selected subject to the following conditions:

1. No more than 300 permits may be issued, authorizing each permittee to take 1 tundra swan.
2. The season must be concurrent with the duck season.
3. The appropriate State agency must issue permits, obtain harvest and hunter participation data, and report the results of this hunt to the Service by June 1, 1989.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Puerto Rico, 1988–89

Shooting hours: Between one-half hour before sunrise and sunset daily.

Doves and Pigeons

Outside Dates: Puerto Rico may select hunting seasons between September 1, 1988, and January 15, 1989, as follows:

Hunting Seasons: Not more than 60 days for Zenaida, mourning, and white-winged doves, and scaly-naped pigeons.

Daily Bag and Possession Limits: Not to exceed 10 doves of the species named herein, singly or in the aggregate, and not to exceed 5 scaly-naped pigeons.

Closed Areas.—*Municipality of Culebra and Desecheo Island*—closed under Commonwealth regulations.

Mona Island—closed in order to protect the reduced population of white-crowned pigeon (*Columba leucocephala*), known locally as "Paloma cabeciblanca."

El Verde Closure Area—consisting of those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture on 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one kilometer from the juncture of Routes 186 and 956 south to KM 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public. The purpose of this closure is to afford protection to the Puerto Rican parrot (*Amazona vittata*) presently listed as an endangered species under the Endangered Species Act of 1973.

Cidra Municipality and Adjacent Areas consisting of all of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayer, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning. The purpose of this closure is to protect the Plain pigeon (*Columba inornata wetmorei*), locally known as "Paloma Sabanera," which is present in the above locale in small numbers and is presently listed as an endangered species under the Endangered Species Act of 1973.

Ducks, Coots, Moorhens, Gallinules and Snipe

Outside Dates: Between November 5, 1988, and February 28, 1989, Puerto Rico may select hunting seasons as follows:

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag and Possession Limits.—Ducks—Not to exceed 3 daily and 6 in possession, except that the season is closed on the ruddy duck (*Oxyura jamaicensis*); the White-cheeked pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*), which are protected by the Commonwealth of Puerto Rico.

Common moorhens—Not to exceed 6 daily and 12 in possession; the season is closed on purple gallinules (*Porphyrula martinica*).

Common snipe—Not to exceed 6 daily and 12 in possession.

Coots—There is no open season on coots, i.e. common coots (*Fulica americana*) and Caribbean coots (*Fulica caribaea*).

Closed Areas: No open season for ducks, common moorhens, and common snipe is prescribed in the Municipality of Culebra and on Desecheo Island.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in the Virgin Islands, 1988–89

Shooting Hours: Between one-half hour before sunrise and sunset daily.

Doves and Pigeons

Outside Dates: The Virgin Islands may select hunting seasons between September 1, 1988, and January 15, 1989, as follows:

Hunting Season: Not more than 60 days for Zenaida doves and scaly-naped pigeons throughout the Virgin Islands.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves and 5 scaly-naped pigeons.

Closed Seasons: No open season is prescribed for ground or quail doves, or other pigeons in the Virgin Islands.

Local Names for Certain Birds

Zenaida dove (*Zenaida aurita*)—mountain dove.

Bridled quail dove (*Geotrygon mystacea*)—Barbary dove, partridge (protected).

Common Ground dove (*Columba passerina*)—stone dove, tobacco dove, rola, tortolita (protected).

Scaly-naped pigeon (*Columba squamosa*)—red-necked pigeon, scaled pigeon.

Ducks

Outside Dates: Between December 1, 1988, and January 31, 1989, the Virgin Islands may select a duck hunting season as follows:

Hunting Seasons: Not more than 55 consecutive days may be selected for hunting ducks.

Daily Bag and Possession Limits: Not to exceed 3 daily and 6 in possession, except that the season is closed on the ruddy duck (*Oxyura jamaicensis*); the White-cheeked pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*).

Date: July 28, 1988.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-17952 Filed 8-8-88; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 683

[Docket No. 80483-8147]

Western Pacific Bottomfish Fisheries

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement a limited access program for the bottomfish fishery in certain waters of the Northwestern Hawaiian Islands (NWHI). The program establishes a control zone called the Ho'omalu Zone, in which a person must have a limited entry permit to fish, and a qualifying zone called the Mau Zone, in which a person could earn points to qualify for future eligibility for a limited entry permit. Persons who can demonstrate participation in, or substantial financial commitment to participate in the NWHI fishery, on or before August 7, 1985, would be eligible for initial permits to participate in the Ho'omalu Zone fishery. A landings requirement is established to maintain eligibility for annual renewal of permits. No new permits to enter the fishery will be issued until stocks are sufficiently large to provide adequate catches. A point system is established to qualify persons for permits for future entry to the fishery. The Western Pacific Fishery Management Council (Council), with the advice of an industry and government Advisory Review Board, will make recommendations to the Regional Director, Southwest Region, NMFS, regarding future entry to the fishery. The objectives of the limited access program are to reduce the risk of overfishing, reduce the level of overcapitalization in the fishery, increase stability in the fishery, and increase profitability or net return to the fishery. The Council will undertake a full evaluation of the effectiveness of the program in 5 years. Under the rule, it is a violation of Federal law to fail to report fishery data in accordance with State reporting requirements and vessel operators must notify the U.S. Coast Guard prior to anticipated arrival in port to unload bottomfish taken in the NWHI.

EFFECTIVE DATES: September 6, 1988. The permit requirement will go into effect January 1, 1989. Persons who wish to obtain permits by that date must file the application and supplementary information by November 30, 1988.

ADDRESS: A copy of the amendment containing the limited access program, the environmental assessment (EA), and the regulatory impact review (RIR) may be obtained by contacting the Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1406, Honolulu, Hawaii 96813, 808–523–1368. Comments on information collection requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Washington, DC 20503. Attention Desk Officer for NOAA.

FOR FURTHER INFORMATION CONTACT: Svein Fougner (Southwest Region, Terminal Island, CA), 213–514–6660; or Peter Milone (Southwest Region, Honolulu, HI), 808–955–8831.

SUPPLEMENTARY INFORMATION: The domestic fisheries for bottomfish in the U.S. exclusive economic zone (EEZ) adjacent to the State of Hawaii are managed under the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP). The FMP was developed by the Council under the Magnuson Fishery Conservation and Management Act (MFCMA) and implemented August 27, 1986 (51 FR 27413, July 31, 1986).

The notice of availability of Amendment 2 to the FMP was published on April 18, 1988 (53 FR 12712) and the proposed rule was published on May 11, 1988 (53 FR 16735). Comments were invited until June 20, 1988. One written comment was received.

The preamble to the proposed rule presented in substantial detail the features of the limited access program proposed for the NWHI and that discussion will not be repeated here.

This final rule is scheduled to go into effect January 1, 1989. Interested persons should be advised that the Regional Director, Southwest Region, NMFS, will be working with the Council and the State of Hawaii to prepare for implementation of the Ho'omalu Zone permit requirement and other provisions of the limited access program. Persons who wish to obtain permits under this program are urged to obtain application forms from the Southwest Region and to compile and submit the necessary documentation of participation in the fishery, or of financial commitments made for participation in the fishery by November 30, 1988, in time for review and award of permits in advance of the effective date. The NMFS also will arrange the protected species seminars required for captains and relief captains and will advise applicants of the time and location of seminars when permit applications were received.

Comments and Responses

Written comments were received from one individual.

Comment: The individual objected to the proposed limited access program because he had been advised that he might not qualify for an initial permit. He indicated he had previously supported the proposal when he had been assured that he would qualify.

Response: Whether or not this person would qualify is not yet known. Under the program, the Southwest Regional Director will make a decision based on the information presented in support of an application, including documentation of participation in the fishery on or before August 7, 1985, or of a firm commitment or offer to buy a vessel for the fishery on or before August 7, 1985. It also is noted that even if the individual does not qualify for an initial permit under the criteria of the program, he may qualify for subsequent entry to the fishery under the point system for new participation when the Regional Director concludes that stock and economic conditions warrant additional entry.

Changes From the Proposed Rule in the Final Rule

A prohibition that did not appear in the proposed rule is added in the regulatory text of the final rule. The proposed rule and this final rule contain § 683.27, which requires fishermen to notify the U.S. Coast Guard at least 24 hours before making any landing of bottomfish from the Ho'omalu Zone. This final rule adds a new paragraph (n) to § 683.6, General prohibitions, which expressly prohibits failure to comply with the requirement of § 683.27.

Classification

The Director, Southwest Region, NMFS, determined that the Amendment, as approved, is necessary for the conservation and management of the NWHI bottomfish resource and is consistent with the Magnuson Act and other applicable law.

The Council included an environmental review as part of the FMP amendment and an environmental assessment was prepared. The Assistant Administrator for Fisheries, NOAA concluded that there will be no significant impact on the human environment as a result of this rule.

Implementation of this rule is not an action that may affect any species listed as endangered or threatened under the Endangered Species Act of 1972 (Act), or the critical habitat of those species. The Council initiated informal consultations with NMFS under section 7 to the Act and it was concluded that the action was not likely to have adverse effects on any listed species or critical habitat.

The Under Secretary, NOAA, determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. A summary of this determination appears in the proposed rule (53 FR 16735, May 11, 1988) and is based on the regulatory impact review (RIR) which is included in the Amendment.

The General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. A summary of this determination appears in the proposed rule.

This final rule contains collection of information requirements subject to the Paperwork Reduction Act. These collection of information requirements contained in this rule were approved by the Office of Management and Budget under Control Number 0648–0201. Public reporting burdens for these collection of information requirements are estimated to average 1 hour per response for the permit requirement and 4 minutes per response for each advanced notification of the U.S. Coast Guard before landing bottomfish. These estimates include the time for reviewing instructions, searching existing date sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of these collection of information requirements, including suggestions for reducing these burdens, to Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry St., Terminal Island, CA 90731; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Hawaii. The State of Hawaii concurred with this determination.

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

List of Subjects in 50 CFR Part 683

Fisheries, Reporting and recordkeeping requirements.

Dated: August 3, 1988.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR Part 683 is amended as follows:

PART 683—[AMENDED]

1. The authority citation for 50 CFR Part 683 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.* unless otherwise noted.

2. In § 683.2, a new definition for *Qualifying landing* is added to read as follows:

§ 683.2 Definitions.

* * * * *

Qualifying landing means a landing that meets a standard required for permit eligibility under § 683.25, as follows:

(a) Initial permit eligibility. (1) A qualifying landing for initial permit eligibility under § 683.25(b) (1) and (5) is a landing that contained bottomfish from the NWHI, regardless of amount, and which was made on or before August 7, 1985; (2) A qualifying landing for 1986 and 1987 under § 683.25(b)(2) is a landing which contained at least 2,500 pounds of bottomfish from the NWHI or a landing of at least 2,500 pounds of fish from the NWHI, of which at least 50 percent by weight was bottomfish;

(b) Permit renewal—a qualifying landing for permit renewal under § 683.25(c) is a landing which contained 2,500 pounds of bottomfish from the NWHI or a landing of at lest 2,500 pounds of fish from the NWHI, of which at least 50 percent by weight was bottomfish.

(c) New access eligibility points—a qualifying landing for eligibility points under § 683.25(e) is any landing of bottomfish from the NWHI, regardless of weight, if made on or before August 7, 1985; or a landing of at least 2,500 pounds of bottomfish lawfully harvested from the NWHI, or a landing of at least 2,500 pounds of fish lawfully harvested from the NWHI, of which at least 50 percent by weight was bottomfish, if made after August 7, 1985.

* * * * *

3. In § 683.5, paragraph (a)(2) is amended by adding (a)(2) (i) and (ii) to read as follows:

§ 683.5 Management subareas.

(a) * * *

(2) * * *

(i) *Ho'omalu Zone* means that portion of the EEZ around the NWHI west of 165°W longitude.

(ii) *Mau Zone* means that portion of the EEZ around the NWHI between 161°20' and 165° W. longitude.

* * * * *

4. In § 683.6, paragraph (k) is redesignated (o) and new paragraphs (k), (l), (m) and (n) are added as follows:

§ 683.6 General prohibitions.

* * * * *

(k) Fish for bottomfish in the Ho'omalu Zone without a limited access permit issued under § 683.25;

(l) Serve as captain or relief captain on a vessel fishing in the Ho'omalu Zone without first participating in a protected species seminar conducted by NMFS;

(m) Falsify or fail to make and/or file any and all reports of bottomfish landings, containing all data and in the exact manner, required by the applicable State laws and regulations, as specified in § 683.11, provided that the person is required to do so by the applicable State laws and regulations;

(n) Fail to notify the U.S. Coast Guard at least 24 hours prior to making any landing of bottomfish taken in the Ho'omalu Zone, as required by § 683.27;

* * * * *

5. A new § 683.10 is added as follows:

§ 683.10 Appeals of administrative action.

(a) Except as provided in Subpart D of 15 CFR Part 904, any applicant for a permit or permit holder may appeal the granting, denial, conditioning, or suspension of their permit or a permit affecting their interests to the Assistant Administrator for Fisheries, NOAA. In order to be considered by the Assistant Administrator, such appeal must be in writing, must state the action(s) appealed, and the reasons therefor, and must be submitted within 30 days of the action(s) by the Regional Director. The appellant may request an informal hearing on the appeal.

(b) Upon receipt of an appeal authorized by this section, the Assistant Administrator will notify the permit applicant, or permit holder as appropriate, and will request such additional information and in such form as will allow action upon the appeal. Upon receipt of sufficient information, the Assistant Administrator will decide the appeal in accordance with the criteria set forth in 50 CFR Part 683 and the amendment to the FMP, as appropriate, based upon information relative to the application on file at NMFS and the Council and any additional information, the summary record kept of any hearing and the hearing officer's recommended decision, if any, as provided in paragraph (c) of this section, and such other considerations as deemed appropriate. The Assistant Administrator will notify all interested persons of the decision, and the reasons therefor, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(c) If a hearing is requested or if the Assistant Administrator determines that one is appropriate, the Assistant Administrator may grant an informal hearing before a hearing officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing in the **Federal Register**. Such a hearing shall normally be held no later than 30 days following publication of the notice in the **Federal Register** unless the hearing officer extends the time for reasons deemed equitable. The appellant, the applicant (if different), and, at the discretion of the hearing officer, other interested persons, may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Assistant Administrator.

(d) The Assistant Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Assistant Administrator will notify interested persons of the decision, and the reason(s) therefor, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Assistant Administrator's action shall constitute final action for the agency for the purposes of the Administrative Procedure Act.

(e) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Assistant Administrator for good cause, either upon his or her own motion or upon written request from the appellant or applicant stating the reason(s) therefor.

6. A new § 683.11 is added as follows:

§ 683.11 Reports.

Any person who has a Federal permit to fish for bottomfish or seamount groundfish in the NWHI, and who is required to do so by the applicable State laws and regulations, shall make and/or file any and all reports of bottomfish and seamount groundfish landings, containing all data and in the exact manner, required by the applicable State laws and regulations.

7. In § 683.21, paragraphs (a) and (f) are revised to read as follows:

§ 683.21 Permit requirements for the Northwestern Hawaiian Islands.

(a) *Permit areas.* (1) The owner of any vessel being used to fish for bottomfish in the Mau Zone must have a permit issued under this section for that vessel.

(2) The owner of any vessel fishing for bottomfish in the Ho'omalu Zone must have a permit issued under § 683.25 for that vessel.

(3) The owner of any vessel fishing for seamount groundfish in a given fishery management area must have a permit issued under this section for that vessel.

(4) No vessel may be covered by a permit to harvest groundfish in the Ho'omalu Zone and the Mau Zone at the same time.

* * * * *

(f) *Expiration.* Permits issued under this section expire on December 31 of the year covered by the permit.

* * * * *

§ 683.26 [Redisignated from § 683.25]

8. Section 683.25 is redesignated § 683.26 and a new § 683.25 is added to read as follows:

§ 683.25 Limited access management program.

(a) *Limited access permits.* General requirements.

(1) The owner of any vessel engaged in fishing for bottomfish in the Ho'omalu Zone must have a permit issued under this section.

(2) Permits issued under this section shall expire on December 31 of the year covered by the permit.

(3) Each application for a permit must be submitted to the Regional Director by the vessel owner at least 30 days before the date on which the applicant wants the permit to be effective.

(4) Each applicant must be submitted on the form used to apply for a permit under § 683.21(b) and a supplementary information sheet to be provided by the Regional Director. Each application must be signed by the vessel owner and must contain, in addition to the information listed in § 683.21(b)(2), the following information:

(i) The qualification criterion that the applicant believes he or she meets for issuance of a limited access permit; and

(ii) Copies of landings receipts or other documentation, with a certification from a State or Federal agency that this information is accurate, to demonstrate participation in the NWHI bottomfish fishery; or

(iii) Notarized copies of loan documents or other documents that would demonstrate financial commitments on or before August 7,

1985, to enter the NWHI bottomfish fishery; or

(iv) Written evidence indicating that an offer was made to purchase a vessel or that a vessel was under construction, on or before August 7, 1985, and that the vessel was to be used in the NWHI bottomfish fishery.

(v) If the application is filed by a partnership or corporation, the application must identify the names of the owners and their respective percentage of ownership of the partnership or corporation.

(5) Protected species seminar. Each designated captain and relief captain must participate in a seminar conducted by NMFS to ensure familiarity with protected species laws and regulations applicable to the NWHI and the species those laws and regulations are designed to protect.

(6) Sale or transfer of permits to new owners.

(i) A vessel permit may not be sold or otherwise transferred to a new owner.

(ii) A permit or permits may be held by a partnership or corporation. If 50 percent or more of the ownership of the vessel passes to persons other than those listed in the original application, the permit will lapse and must be surrendered to the Regional Director.

(7) Transfer of permits to new vessels.

(i) An owner of a permitted vessel may, without limitation, transfer his permit to another vessel owned by him, provided that the replacement vessel does not exceed 60 feet in length and that the replacement vessel is put into service within 12 months after the owner declares to the Regional Director the intent to make the transfer of the permit.

(ii) An owner of a permitted vessel may apply to the Regional Director for approval to use the permit for a replacement vessel greater than 60 feet in length. The Regional Director may allow this change upon determining, after consultation with the Council and considering the objectives of the limited access program, that the replacement vessel has equal catching power as the original vessel, or that the replacement vessel has catching power that is comparable to the rest of the vessels holding permits for the fishery, and that the change is not inconsistent with the objectives of the program.

(iii) The Regional Director shall consider vessel length, range, hold capacity, gear limitations, and other appropriate factors in making determinations of catching power equivalency and comparability of the catching power of vessels in the fishery.

(b) *Supplementary requirements for initial permits.* An application for an initial permit under this paragraph must be filed within 5 years of the effective date of this program. A permit for a vessel to be used for fishing for bottomfish in the Ho'omalu Zone may be issued to:

(1) Any owner who can document that a vessel owned by him made one or more qualifying landings of bottomfish from the NWHI on or before August 7, 1985.

(2) Any owner of two or more vessels which qualify under paragraph (b)(1) of this section may obtain a permit for each of such vessels which also made at least one qualifying landing of bottomfish in 1986 and 1987.

(3) Any person who can document that on or before August 7, 1985, he or she had incurred substantial expenditures for or had received written approval of a loan to purchase or construct a vessel to be used in the NWHI bottomfish fishery.

(4) Any person who can document that on or before August 7, 1985, he or she made an offer to purchase a vessel for the NWHI bottomfish fishery or had such a vessel under construction.

(5) Any person who can document that he or she was captain of a vessel that made at least one qualifying landing of bottomfish the NWHI on or before August 7, 1985, and who becomes an owner or 50% or more interest in a vessel within 5 years of the effective date of this program.

(c) *Supplementary requirements for permit renewal.* (1) A permit will be eligible for renewal if the vessel covered by the permit makes three or more qualifying landings during the permit year.

(2) The owner of a permitted vessel that did not make three or more qualifying landings of bottomfish in a year may apply to the Regional Director for waiver of the landing requirement. If the Regional Director finds that failure to make three landings was due to circumstances beyond the owner's control, he may renew the permit. A waiver may not be granted if the failure to make three landings was due to general economic conditions or market conditions such that the vessel operations would not be profitable.

(d) *Supplementary requirements for new entry permits.* The Regional Director may issue new vessel permits under this part when the Regional Director has determined, in consultation with the Council, that bottomfish stocks in the Ho'omalu Zone are able to support additional fishing effort. This shall be established by determining that the total estimated annual revenue to the fleet exceeds the total estimated annual fixed and variable costs to the fleet in the Ho'omalu Zone by an amount at least equal to the average cost of a vessel year. This determination shall be made and published annually in association with the annual report required under § 683.24 of this part.

(e) *Eligibility.* When the Regional Director has determined that new permits may be issued, they shall be issued to applicants based upon eligibility determined as follows:

(1) *Point System.* (i) Two points shall be assigned for each year in which the applicant was owner or captain of a vessel which made three or more qualifying landings of bottomfish from the NWHI.

(ii) One point shall be assigned for each year in which the applicant was owner or captain of a vessel that landed at least 6,000 pounds of bottomfish from the main Hawaiian Islands.

(iii) Points will be assigned only under paragraph (e)(1)(i) of this section or under paragraph (e)(1)(ii) of this section for any one year.

(iv) Points will be assigned for every year for which the requisite landings can be documented.

(2) An applicant must own at least a 25 percent share in the vessel that the permit would cover, and only one permit will be assigned to any vessel.

(3) New permits shall be awarded to applicants in descending order, starting with the applicant with the largest number of points. If two or more persons have an equal number of points, and there are insufficient new permits for all such applicants, the new permits shall be awarded by the Regional Director through a lottery.

(4) Notwithstanding paragraph (e)(3) of this section, a person who originally qualifies for and obtains a permit under § 683.25(a) and who voluntarily surrenders that permit to the Regional Director within the first 5 years of this program will have priority over applicants under the point scale system for a new permit under this section. If two or more persons qualify under this provision, the person surrendering a permit at the earliest date will have first priority. If two or more such person are equally qualified under the date of surrender criterion, the permit shall be awarded by the Regional Directory by a lottery. A permit holder may qualify for this provision only one time.

(5) The Regional Director shall place a notice in the **Federal Register** and shall use other means to notify prospective applicants of the opportunity to file applications for new permits under this program.

9. A new § 683.27 is added as follows:

§ 683.27 Notification of landings.

The operator of a fishing vessel that has taken bottomfish in the Ho'omalu Zone must contact the U.S. Coast Guard, by radio or otherwise, at the 14th District, Honolulu, Hawaii (Telex: 392401); Pacific Area, San Francisco, California (Telex: 330427); or 17th District, Juneau, Alaska (Telex: 45305), at lease 24 hours before landing, and report the port and the approximate date and time at which the bottomfish will be landed.

10. A new § 683.28 is added to read as follows:

§ 683.28 Native Hawaiian fishing rights. [Reserved]

[FR Doc. 88-17967 Filed 8-5-88; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 53, No. 153
Tuesday, August 9, 1988

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

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. 1

Issuance of Quarterly Report on the Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission has issued the June 1988 Regulatory Agenda. The Agenda, which is quarterly compilation of all rules on which the NRC has proposed, or is considering action as well as those on which it has recently completed action, and all petitions for rulemaking which have been received and are pending disposition by the Commission, is issued to provide the public with information regarding NRC's rulemaking activities.

ADDRESSES: A copy of this report, designated NRC Regulatory Agenda (NUREG–0936) Vol. 7, No. 1, is available for inspection and copying at a cost of six cents per page at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555.

Single copies of the report may be purchased from the U.S. Government Printing Office (GPO). Customers may call (202) 275–2060 or (202) 275–2171 or write to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

FOR FURTHER INFORMATION CONTACT: Juanita Beeson, Chief, Rules Review and Editorial Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–8926, toll free number (800) 368–5642.

Dated at Bethesda, Maryland, this 3rd day of August 1988.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management.

[FR Doc. 88–17939 Filed 8–8–88; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88–CE–22–AD]

Airworthiness Directives; Piper Models PA–60–601, PA–60–601P, PA–60–602P and PA–60–700P Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Piper (Aerostar) Models PA–60–601, PA–60–601P, PA–60–602P and PA–60–700P airplanes. This AD would require replacement and modification of certain engine oil hoses and associated hardware. This action is proposed as a result of reports of burned, chafed, brittle and leaking oil supply hoses which are suspected in several incidents of causing in-flight fires. The actions of this proposed AD would correct the reported conditions and preclude in-flight fires.

DATE: Comments must be received on or before September 8, 1988.

ADDRESSES: Piper Aircraft Corporation Service Bulletin (SB) No. 761, dated April 18, 1983, and SB No. 815, dated January 3, 1986, applicable to this AD may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (407) 567–4366. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 88–CE–22–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Goodall, Aerospace Engineer, Propulsion Branch, ACE–140A, Atlanta Aircraft Certification Office, FAA, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–3810.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested perons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 88–CE–22–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

The National Transportation Safety Board has reported several in-flight engine fires on Piper PA–60 series airplanes due to exhaust system leaks and misrouted oil supply hoses. Piper SB No. 818, dated February 26, 1986, required the disassembly, inspection, replacement of defective or worn parts, and proper re-assembly of the exhaust system on the PA–60 series airplanes. The FAA issued AD 87–07–09, Amendment 39–5600 (52 FR 11631, April 10, 1987), with an effective date of May 15, 1987, which implemented Piper SB

No. 818. On April 18, 1983, Piper released SB No. 761 requiring replacement and modification of engine oil hoses and associated hardware.

These actions alleviate the above stated hose conditions by replacing some hoses with higher temperature rated hoses, and also provide for rerouting these and other serviceable hoses for increased clearances between the hoses, the exhaust stacks, and the turbochargers. On January 3, 1986, Piper released SB No. 815 requiring the replacement of ties securing turbochargers oil supply hoses with metal clamps and hardware so as to provide increased security and clearance between the hoses, the exhaust stacks and the turbochargers.

Since the condition described herein is likely to exist or develop in other Piper Model PA-60 airplanes of the same design, the proposed AD would require replacement and rerouting of certain fluid carrying hoses and the proper securing of these hoses as specified in Piper SB Nos. 761 and 815 on the subject airplanes.

The FAA has determined there are approximately 325 airplanes affected by the proposed AD. The one-time cost of implementing the proposed AD is estimated to be $1,040 per airplane. The total cost is estimated to be $338,000 to the private sector. The cost of complying with this proposal would not have a significant financial impact on any small entities owning affected airplanes.

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

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1345(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Piper (Aerostar): Applies to Models PA-60-601 equipped with an automatic waste gate controller per Retrofit Option 106 (S/N 61-0001-004 through 61-0334-111), PA-60-601 (S/N 61-0342-112 through 61-0880-8162157), PA-60-601P (S/N 61P-0157-001 through 61P-0860-8163455), PA-60-602P (S/N 62P-0750-8165001, and 62P-0361-8165002 through 60-8365010), PA-60-700P (S/N 60-8423001 through 60-8423025) airplanes certificated in any category.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD unless already accomplished.

To reduce the possibility of damage to the oil supply which if not corrected could result in an in-flight fire, oil starvation and/or engine failure, accomplish the following:

(a) Replace and modify the engine oil hoses and associated hardware in accordance with the instructions contained in Piper Service Bulletin (SB) No. 761, dated April 18, 1983, and Piper SB No. 815, dated January 3, 1986.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Atlanta Aircraft Certification Office, ACE-115A, Federal Aviation Administration, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine these documents at the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

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

M. C. Beard,

Director, Office of Airworthiness.

[FR Doc. 88-17872 Filed 8-8-88; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1260

Changes to NASA Grant and Cooperative Agreement Handbook

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Grant and Cooperative Agreement Handbook is amended to (1) establish criteria for grant officer appointments, (2) maintain consistency with the Federal Acquisition Regulation (FAR) and NASA FAR Supplement (NFS) unsolicited proposal regulations and, (3) incorporate the new governmentwide suspension and debarment regulations.

DATE: Comments are due not later than September 8, 1988.

ADDRESS: Comments should be addressed to : W. A. Greene, Procurement Policy Division (Code HP), Office of Procurement, NASA, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: W. A. Greene, Telephone: (202) 453-8923.

SUPPLEMENTARY INFORMATION:

Background

All unsolicited proposals submitted to NASA are governed by the FAR and NFS. However, all processing steps for proposals leading to contracts are not applicable to proposals resulting in grants. The coverage on these variations has been revised to ensure consistency with the FAR and NFS and edited to remove any unnecessary language or overlap. NASA implementation of the common rule at 14 CFR Part 1265, Governmentwide Debarment and Suspension (Nonprocurement) requires the addition of a provision to NASA grants and cooperative agreements and inclusion of supporting instructions.

Impact

This proposed rule has been reviewed by the Office of Management and Budget (OMB) under the provisions of Executive Order 12291. NASA certifies that these changes will not have a significant economic affect on a

substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed rule does not impose any reporting or bookkeeping requirements subject to the Paperwork Reduction Act of 1980.

List of Subjects in 14 CFR Part 1260

Grants.

S.J. Evans,

Assistant Administrator for Procurement.

PART 1260—[AMENDED]

1. The authority citation for 14 CFR Part 1260 continues to read as follows:

Authority: Pub. L. 97-258, 31 U.S.C. 6301 *et seq.*

Subpart 1—General

§ 1260.107 [Amended]

2. In § 1260.107, paragraph (f) is revised to read as follows:

* * * * *

(f) *Grants officer.* A qualified NASA employee who has been delegated the authority to award and administer grants and cooperative agreements.

* * * * *

3. Section 1260.110 is added to read as follows:

§ 1260.110 Grants officer qualifications.

Procurement officers shall (1) establish installation requirements for experience, education, and training of grants officers and (2) develop procedures to ensure that only individuals meeting these requirements are designated as grants officers.

Subpart 2—Basic Policies

§ 1260.202 [Amended]

4. Section 1260.202 is amended by revising paragraphs (b) (1) through (4) and (c) to read as follows:

* * * * *

(b) *Unsolicited Proposals.*—(1) *Applicable regulations.* FAR, 49 CFR 15.5 and the NFS, 48 CFR 1815.5, apply to unsolicited proposals which result in grants and cooperative agreements, unless otherwise noted in this § 1260.202(b).

(2) *Preliminary discussions.* In accordance with FAR, 48 CFR 15.504, contact with agency technical personnel prior to proposal submission is permissible and is encouraged to determine if preparation of a formal submission is warranted. Such discussions, confined to the limited objectives of conveying to the potential offeror an understanding of the agency mission and needs relative to the type of effort contemplated, do not jeopardize the unsolicited status of any subsequently submitted proposal.

(3) *Proposal validity.* If an invalid proposal is received for funding action, the grants officer should give the institution an opportunity to provide the missing information and should notify the sponsoring technical office of any resultant substantive changes. In the event excessive delay or possible cancallation of the action is contemplated, the sponsoring office should be notified. In determining proposal validity, note that a broad agency announcement shall not be considered to be an "acquisition requirement" as the term is used at FAR, 48 CFR 15.507(a)(2).

(4) *Renewal proposals.* NFS, 48 CFR 1815.505-70 does not apply. Proposals for renewal of ongoing projects generally emphasize changes since the original award was made and may be simpler than proposals for new efforts. For renewal purposes, solicited proposals received in response to NASA Research Announcements (NRA) may be used to fulfill the unsolicited proposal requirement (see Section 1260.402 and NFS, 48 CFR 1835.016-70).

* * * * *

(c) *Solicited Proposals.* As a result of the instrument selection criteria specified by Pub. L. 97-258 and NASA's implementation in § 1260.203, the award of a grant or cooperative agreement based on a solicited proposal may be appropriate. Grants and cooperative agreements based on solicited proposals are most likely to result from proposals submitted in response to broad agency announcements, such as NRAs or "Announcements of Opportunity" (see NFS, 48 CFR 1870.103).

5. Section 1260.210 is added to read as follows:

§ 1260.210 Debarment and suspension.

Grant officers will follow the procedures in NMI ____, Nonprocurement Debarment and Suspension, in implementation of 14 CFR Part 1265. Before making an award, the grants officer shall ensure that the participant's status has been verified (14 CFR 1265.505 (d) and (e)) and the certification requirement at 14 CFR 1265.510 has been met. If the required certification has not been submitted with the proposal, the grants officer shall obtain the certification before proceeding.

Subpart 4—Research Grant and Cooperative Agreement Provisions

6. Section 1260.420 is amended as set forth below:

§ 1260.420 [Amended]

a. In paragraph (d), the phrase "(b), above, shall" is revised to read "(b), (e), and (f) of this section shall".

b. Paragraph (g) is added to read as follows:

* * * * *

(g) Effective October 1, 1988, the following provision shall be appended, as a special condition, to all grants and cooperative agreements entered into after that date (pending its inclusion in NASA Form 1463A, Provisions for Research Grants and Cooperative Agreements):

Debarment and Suspension (Oct 1988)

NASA grants and cooperative agreements, except for those to foreign institutions, are subject to the provisions of 14 CFR Part 1265, Governmentwide Debarment and Suspension (Nonprocurement). The certification required by that regulation must also accompany extension proposals.

[FR Doc. 88-17964 Filed 8-8-88; 8:45 am]

BILLING CODE 7510-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 270, 274, 275, and 279

[Release Nos. IC-16511, IA-1133; File No. S7-16-88]

Forms for Filings by Accountants

AGENCY: Securities and Exchange Commission.

ACTION: Proposal of forms and amendments to related rules.

SUMMARY: The Commission is proposing for comment three new forms to be used by accountants when meeting current filing requirements under the Investment Company Act of 1940 and the Investment Advisers Act of 1940. The proposed forms would, if adopted, facilitate the proper filing of examination certificates with the Commission. Use of the forms would result in a greater accessibility of information to both investors and the Commission's staff.

DATE: Comments must be received on or before September 23, 1988.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. All comment letters should refer to File No. S7-16-88. 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: John McGuire, Attorney, or Thomas S. Harman, Chief of Office, (202) 272–2107 Office of Disclosure and Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today is publishing for comment proposed Forms N–17f–1, N–17f–2, and ADV–E, which would serve as cover pages for examination certificates filed by accountants pursuant to rules 17f–1 (17 CFR 270.17f–1) and 17f–2 (17 CFR 270.17f–2) under the Investment Company Act of 1940 ("1940 Act") and rule 206(4)–2 (17 CFR 275.206(4)–2) under the Investment Advisers Act of 1940 ("Advisers Act"). In addition, the Commission is proposing rule revisions to require the use of the proposed forms.

Discussion

Rules 17f–1, 17f–2, and 206(4)–2 regulate certain aspects of how a management investment company or an investment adviser maintains custody of securities and other assets. Among other things, these rules require than an independent public accountant verify by actual examination: (1) Securities or similar investments of a management investment company that are placed in the custody of a company that is a member of a national securities exchange;[1] (2) securities and similar investments of a management investment company maintained in the custody of such company;[2] and (3) securities and funds of clients in the possession or custody of an investment adviser.[3]

After these examinations, the accountant must promptly file with the Commission a certificate stating that it has made such an examination and describing the extent of the examination.[4] When the Commission receives the examination certificates, the certificates often cannot be matched with the appropriate investment company or investment adviser. The certificates do not always include the company's or adviser's SEC file number and may not refer to the same name as found on the company's or adviser's registration form, thus making it difficult for Commission staff to place the certificate in the correct file or determine whether each company and adviser is complying with Commission rules. Consequently, it is difficult for the Commission staff, as well as investors and other interested persons, to review the examination certificates.

The related rules, 17f–1, 17f–2, and 206(f)–2, would be revised to require that the appropriate proposed form, Forms N–17f–1, N–17f–2, and ADV–E, be attached as a cover sheet to all examination certificates filed with the Commission.[5] The proposed forms would require investment companies and investment advisers to provide their SEC file number, name, and address. Investment companies and investment advisers would be required to provide the appropriate form to any public accountant conducting an examination required by rules 17f–1, 17f–2, or 206(4)–2. Under the amended rules the accountant would then file with the Commission the examination certificate attached to the appropriate form.[6] The original and one copy of the examination certificate and attached form would be filed with the Commission's Washington, DC office, and one copy would be filed with the regional office in the region in which the company's or adviser's principal place of business is located.[7]

The Commission is also considering and seeks comment on an alternative to the proposed Forms N–17f–1, N–17f–2, and ADV–E. Due to the similarity of purpose of the proposed forms, the Commission is considering, in the alternative, the adoption of a single form that would serve as a cover sheet for all examination certificates filed under either the 1940 Act or the Advisers Act. The single form would follow the content of the proposed forms but would require the investment company or investment adviser to indicate, in addition, the rule under which the examination certificate is being filed. Comment is invited as to the costs and benefits of adopting either the three proposed forms or the single form.

In proposing these forms and related rule revisions, the Commission is making no statement as to the circumstances under which companies and advisers become subject to the provisions of Rules 17f–1, 17f–2, and 206(4)–2. It remains the sole responsibility of each investment company or investment adviser and its counsel to determine whether the provisions of any of these rules are applicable.[8]

Cost/Benefit Analysis

The changes proposed today would neither require disclosure of new information nor impose any significant new cost. The proposed forms would simply serve as a cover page to documents already required to be filed and would aid Commission staff in matching filed examination certificates with the appropriate investment company or investment adviser.

The Commission invites specific comment on its assessment of the costs and benefits associated with today's proposal, including estimates of any costs and benefits perceived by commenters.

Regulatory Flexibility Act Certification

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the forms and amendments proposed herein would not,

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[1] Rule 17f–1(b)(4) [17 CFR 270.17f–1(b)(4)]

[2] Rule 17f–2(f) [17 CFR 270.17f–2(f)].

[3] Rule 206(f)–2(a)(5) [17 CFR 275.206(4)–2(a)(5)].

[4] To make a complete examination of the securities, as required under rules 17f–1 and 17f–2, the accountant must not only make a physical examination of the securities themselves, or in some cases obtain confirmation, but must also reconcile the physical count or confirmation with the book records. A necessary prerequisite to the reconciliation would be an examination of the investment accounts and support records, including an adequate check or analysis of the security transactions since the last examination and the entries made thereto. The certificate should include, in general terms, an appropriate description of the scope of the examination of the accounts and the physical examination or confirmation of the securities, and should comply with the usual technical requirements as to dating, salutation, and manual signature. Investment Company Act Rel. No. 279 (Dec. 11, 1941) [11 FR 10924 (Sept. 27, 1946) [1937–1982 Accounting Series Releases Transfer Binder] Fed. Sec. L. Rep. (CCH) § 72,045. The nature and extent of the examination and certificate required by rule 206(4)–2 is described in Investment Advisers Act Rel. No. 201 (May 26, 1966) [31 FR 7821 (June 2, 1966)] [1937–1982 Accounting Series Releases Transfer Binder] Fed. Sec. L. Rep. (CCH) section 72,125.

[5] Each form was designed as a uniform for filing examination certificates required by the Commission and various jurisdictions.

[6] It remains the responsibility of the investment company or investment adviser to assure that the examination certificate is properly filed with the Commission.

[7] Investment Advisers Act Rel. No. 201 (May 26, 1966) [31 FR 7821 (June 2, 1966) suggested that examination certificates filed pursuant to rule 206(4)–2 be filed with both the Commission's Washington office and the appropriate regional office. The Commission now proposes to requires this dual filing for all examination certificates filed under either Rules 17f–1, 17f–2, or 206(4)–2.

[8] The Commission staff has discussed the circumstances under which the provisions of these rules are applicable to investment companies and investment advisers on several occasions. *See, e.g.*, Kramer, Levin, Nessen, Kamin & Frankel (pub. avail. June 27, 1983) (rule 17f–1); Pegasus Income and Capital Fund, Inc. (pub. avail. Dec. 31, 1977); IPI—Income and Price Index Fund (pub. avail. Dec. 12, 1980); Composite Group of funds (pub. avail. March 2, 1987); The Rodney Square Fund (pub. avail. June 15, 1987) (rule 17f–2); and Investment Advisers Act Rel. No. 1000 (Dec. 3, 1985) (50 FR 49835 (Dec. 5, 1985)) (interpreting rule 206(4)–2).

if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefore, is attached to this release.

List of Subjects in 17 CFR Parts 270, 274, 275, and 279

Investment Companies, Reporting and recordkeeping requirements, Securities, Investment Advisers.

Text of Proposals

The Commission is proposing to amend Chapter II, Title 17 of the Code of Federal Regulations as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. The authority for Part 270 continues to read, in part, as follows:

Authority: Secs. 38, 40, 54 Stat. 841, 842; 15 U.S.C. 80a–37, 80c–89; The Investment Company Act of 1940, as amended, 15 U.S.C. 80a–1 *et seq.*; unless otherwise noted.

2. By revising paragraph (b)(4) of § 270.17f–1 to read as follows:

§ 270.171–1 Custody of securities with members of national securities exchanges.

* * * * *

(b) * * *

(4) Such securities and investments shall be verified by actual examination at the end of each annual and semi-annual fiscal period by an independent public accountant retained by the investment company, and shall be examined by such accountant at least one other time, chosen by the accountant, during each fiscal year. A certificate of such accountant stating that an examination of such securities has been made, and describing the nature and extent of the examination, shall be attached to a completed Form N–17f–1 and transmitted to the Commission promptly after each examination.

* * * * *

3. By revising paragraph (f) of § 270.17f–2 to read as follows:

§ 270.17f–2 Custody of investments by registered management investment company.

* * * * *

(f) Such securities and similar investments shall be verified by actual examination by an independent public accountant retained by the investment company at least three times during each fiscal year, at least two of which shall be chosen by such accountant without prior notice to such company. A certificate of such accountant stating that an examination of such securities and investments has been made, and describing the nature and extent of the examination, shall be attached to a completed Form N–17f–2 and transmitted to the Commission promptly after each examination.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

4. The authority for Part 274 continues to read, in part, as follows:

Authority: The Investment Company Act of 1940, 15 U.S.C. 80a–1 *et seq.*, unless otherwise noted.

5. By adding § 274.219 to read as follows:

§ 274.219 Form N–17f–1, cover page for each certificate of accounting of securities and similar investments of a management investment company in the possession or custody of a member of a national securities exchange, filed pursuant to rule 17f–1.

Text of Form N–17f–1

See Appendix A. Form N–17f–1 will not be codified in the Code of Federal Regulations.

6. By adding § 274.220 to read as follows:

§ 274.220 Form N–17f–2, cover page for each certificate of accounting of securities and similar investments in the possession or custody of a registered management investment company, filed pursuant to rule 17f–2.

Text of Form N–17f–2

See Appendix B. Form N–17f–2 will not be codified in the Code of Federal Regulations.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

7. The authority citation for Part 275 would continue to read:

Authority: Secs. 203, 54 Stat. 850 as amended, 15 U.S.C. 80b–3; sec. 204, 54 Stat. 852, as amended 15 U.S.C. 80b–4; sec. 206A, 84 Stat. 1433 as added, 15 U.S.C. 80b–6A; sec. 211, 54 Stat. 855, as amended, 15 U.S.C. 80b–11.

8. By revising paragraph (a)(5) of § 275.206(4)–2 as follows:

§ 275.206(4)–2 Custody or possession of funds or securities of clients.

(a) * * *

(5) All such funds and securities of clients are verified by actual examination at least once during each calendar year by an independent public accountant at a time that shall be chosen by such accountant without prior notice to the investment adviser. A certificate of such accountant stating that an examination of such funds and securities has been made, and describing the nature and extent of the examination, shall be attached to a complete Form ADV–E and transmitted to the Commission promptly after each examination.

* * * * *

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

9. The authority citation for Part 279 would continue to read:

Authority: The Investment Advisers Act of 1940, 15 U.S.C. 80b–1, *et seq.*

10. By adding § 279.8 to read as follows:

§ 279.8 Form ADV–E, cover page for certificate of accounting of securities and funds in possession or custody of an investment adviser.

Text of Form ADV–E

See Appendix C. Form ADV–E will not be codified in the Code of Federal Regulations.

By the Commission.

Jonathan G. Katz,

Secretary.

August 2, 1988.

BILLING CODE 8010–01–M

Appendix A
U.S. Securities and Exchange Commission
Washington, D.C. 20549

OMB APPROVAL
OMB Number: 3235- Expires:Pending OMB action Estimated average burden hours per response....0.05

FORM N-17f-1

Certificate of Accounting of Securities and Similar Investments of a Management Investment Company in the Possession or Custody of Members of National Securities Exchanges

Pursuant to Rule 17f-1 [17 CFR 270.17f-1]

1. Investment Company Act File Number: 811-	Date examination completed:

2. State Identification Number:

AL	AK	AZ	AR	CA	CO
CT	DE	DC	FL	GA	HI
ID	IL	IN	IA	KS	KY
LA	ME	MD	MA	MI	MN
MS	MO	MT	NE	NV	NH
NJ	NM	NY	NC	ND	OH
OK	OR	PA	RI	SC	SD
TN	TX	UT	VT	VA	WA
WV	WI	WY	PUERTO RICO		
Other (specify):					

3. Exact name of investment company as specified in registration statement:

4. Address of principal executive office: (number, street, city, state, zip code)

INSTRUCTIONS

This form must be completed by investment companies who place or maintain securities or similar investments in the custody of a company that is a member of a national securities exchange.

Investment Company

1. All items must be completed by the investment company.

2. Give this Form to the independent public accountant who examines securities and similar investments in the custody or possession of a company that is a member of a national securities exchange, in compliance with Rule 17f-1 under the Act and state law.

Accountant

3. Submit this Form to the Securities and Exchange Commission and appropriate state securities administrators when filing the certificate of accounting required by Rule 17f-1 under the Act and appropriate state law. File the original and one copy with the Securities and Exchange Commission's principal office in Washington, D.C., one copy with the regional office for the region in which the investment company's principal business operations are conducted, and one copy with the appropriate state administrator(s), if applicable.

THIS FORM MUST BE GIVEN TO YOUR INDEPENDENT PUBLIC ACCOUNTANT

Note: The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms. Direct any comments concerning the the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Robert Neal, Clearance Officer, Office of Management and Budget, Room 3228 New Executive Office Building, Washington, D.C. 20503.

Appendix B

U.S. Securities and Exchange Commission
Washington, D.C. 20549

FORM N-17f-2

Certificate of Accounting of Securities and Similar Investments in the Possession or Custody of Management Investment Companies Pursuant to Rule 17f-2 [17 CFR 270.17f-2]

OMB APPROVAL
OMB Number: 3235- Expires:Pending OMB action Estimated average burden hours per response....0.05

1. Investment Company Act File Number: 811-				**Date examination completed:**	
2. State Identification Number:					
AL	AK	AZ	AR	CA	CO
CT	DE	DC	FL	GA	HI
ID	IL	IN	IA	KS	KY
LA	ME	MD	MA	MI	MN
MS	MO	MT	NE	NV	NH
NJ	NM	NY	NC	ND	OH
OK	OR	PA	RI	SC	SD
TN	TX	UT	VT	VA	WA
WV	WI	WY	PUERTO RICO		
Other (specify):					
3. Exact name of investment company as specified in registration statement:					
4. Address of principal executive office: (number, street, city, state, zip code)					

INSTRUCTIONS

This form must be completed by investment companies who possess or have custody of securities or similar investments.

Investment Company

1. All items must be completed by the investment company.

2. Give this Form to the independent public accountant who examines securities and similar investments in the custody or possession of the investment company, in compliance with Rule 17f-2 under the Act and state law.

Accountant

3. Submit this Form to the Securities and Exchange Commission and appropriate state securities administrators when filing the certificate of accounting required by Rule 17f-2 under the Act and appropriate state law. File the original and one copy with the Securities and Exchange Commission's principal office in Washington, D.C., one copy with the regional office for the region in which the investment company's principal business operations are conducted, and one copy with the appropriate state administrator(s), if applicable.

THIS FORM MUST BE GIVEN TO YOUR INDEPENDENT PUBLIC ACCOUNTANT

Note: The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms. Direct any comments concerning the the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Robert Neal, Clearance Officer, Office of Management and Budget, Room 3228 New Executive Office Building, Washington, D.C. 20503.

Appendix C

U.S. Securities and Exchange Commission
Washington, D.C. 20549

FORM ADV-E

Certificate of Accounting of Client Securities and Funds in the Possession or Custody of an Investment Adviser

Pursuant to Rule 206(4)-2 [17 CFR 275.206(4)-2]

OMB APPROVAL
OMB Number: 3235- Expires:Pending OMB action Estimated average burden hours per response....0.05

1. Investment Adviser Act SEC File Number: 801-	Date examination completed:

2. State Identification Number:

AL	AK	AZ	AR	CA	CO
CT	DE	DC	FL	GA	HI
ID	IL	IN	IA	KS	KY
LA	ME	MD	MA	MI	MN
MS	MO	MT	NE	NV	NH
NJ	NM	NY	NC	ND	OH
OK	OR	PA	RI	SC	SD
TN	TX	UT	VT	VA	WA
WV	WI	WY	PUERTO RICO		
Other (specify):					

3. Full name of investment adviser: (If individual, state last, first, middle name):

4. Name under which business is conducted, if different from above:

5. Address of principal place of business (number, street, city, state, zip code):

INSTRUCTIONS

This form must be completed by investment advisers who possess or have custody of client funds or securities. This form may not be used to amend any information included in an investment adviser's registration statement (e.g. business address).

Investment Adviser

1. All items must be completed by the investment adviser.

2. Give this Form to the independent public accountant who examines client funds and securities in the custody or possession of the investment adviser, in compliance with Rule 206(4)-2(a)(5) under the Act and state law.

Accountant

3. Submit this Form to the Securities and Exchange Commission and appropriate state securities administrators when filing the certificate of accounting required by Rule 206(4)-2(a)(5) under the Act and appropriate state law. File the original and one copy with the Securities and Exchange Commission's principal office in Washington, D.C., one copy with the regional office for the region in which the investment adviser's principal business operations are conducted, and one copy with the appropriate state administrator(s), if applicable.

THIS FORM MUST BE GIVEN TO YOUR INDEPENDENT PUBLIC ACCOUNTANT

Note: The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms. Direct any comments concerning the the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Robert Neal, Clearance Officer, Office of Management and Budget, Room 3228 New Executive Office Building, Washington, D.C. 20503.

BILLING CODE 8010-01-C

Regulatory Flexibility Certification

I, David S. Ruder, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that proposed forms N–17f–1 and N–17f–2, and related amendments to rules 17f–1 (17 CFR 270.17f–1) and 17f–2 (17 CFR 270.17f–2), under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) and Form ADV–E, and the related amendment to rule 206(4)–2 (17 CFR 275.206(4)–2) under the Investment Advisers Act of 1940 (15 U.S.C. § 80b–1 *et seq.*), set forth in Investment Company Act Rel. No. 16511 and Investment Advisers Act Rel. No. 1133, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed forms would serve as cover sheets to accountant examination certificates currently required to be filed. Consequently, only entities currently required to file an examination certificate would be required to file the proposed forms. The proposed forms would neither require additional information to be gathered or disclosed nor impose a new filing burden. Therefore, adoption of proposed forms N–17f–1, N–17f–2, and ADV–E, and the related rule amendments would not have any significant economic impact on a substantial number of small entities.

Dated: August 2, 1988.

David S. Ruder,

Chairman.

[FR Doc. 88–17920 Filed 8–8–88; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[LR–133–86]

Returns Relating to Persons Receiving Contracts From Federal Executive Agencies

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the notice of proposed rulemaking (LR–133–86), which was published in the **Federal Register** on Friday, July 29, 1988 (53 FR 28669). The proposed rules concerned compliance with the new reporting requirements imposed by section 6050M of the Internal Revenue Code, which was added to the Code by the Tax Reform Act of 1986.

FOR FURTHER INFORMATION CONTACT: Keith Stanley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attn: CC:LR:T) or telephone (202) 566–3458 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On July 29, 1988, the **Federal Register** published a notice of proposed rulemaking providing guidance for complying with the provisions of section 6050M of the Internal Revenue Code of 1986.

Need for Correction

As published, the notice of proposed rulemaking contains omitted lines and typographical errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking, which was the subject of FR Doc. 88–17134 (53 FR 28669), is corrected as follows:

Paragraph 1. In the preamble, under the heading "Explanation of Provisions", on page 28670, column 2, the sentence beginning on line 34 and ending on line 40, which reads, "A special reporting rule permitting the use of paper reporting on Form 8596 is provided for those Federal executive agencies that reasonably expect to enter into fewer than 250 contracts to be reported for a calendar year." is removed and the sentence "A special reporting rule permitting the use of paper reporting on Form 8596 for each quarter of a one year period beginning on an October 1 is provided for those Federal executive agencies that reasonably expect on that October 1 to enter into fewer than 250 contracts to be reported for that one year period." is added in its place.

Par. 2. On page 28672, column 3, § 301.6050M–1, line 6 from the bottom of the column, should end with a "period" so as to read "from certain Federal executive agencies."

Par. 3. On page 28672, column 3, § 301.6050M–1, line 5 from the bottom of the column, which reads "(temporary)." should be removed with nothing added in its place.

Dale D. Goode,

Chief, Technical Section, Legislation and Regulations Division.

[FR Doc. 88–17961 Filed 8–8–88; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–102A]

Occupational Safety and Health Control of Hazardous Energy Sources (Lockout/Tagout); Notice of Hearing and Extension of Comment Period

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Notice of hearing; extension of comment period.

SUMMARY: This notice schedules an informal public hearing on the proposed standard on the control of hazardous energy sources (lockout/tagout) which was published in the **Federal Register** on April 29, 1988 (53 FR 15496). This notice also extends the period for the submission of comments on the issues raised in this notice from June 28, 1988, until September 22, 1988.

DATES: The hearing will begin in Washington, DC, on September 22, 1988, at 9:30 a.m., and may continue for more than one day based on the number of notices of intention to appear. Once all parties who wish to do so have testified in Washington, DC, the hearing will be recessed and reconvened in Houston, Texas, on September 27, 1988, at 9:30 a.m., for the receipt of testimony of those parties who prefer to testify at that location. Notices of intention to appear at the public hearing and testimony and evidence to be introduced into the record must be postmarked by September 8, 1988. Written comments on the issues raised in this notice must be postmarked by September 22, 1988.

ADDRESSES: The informal public hearing will begin in the Auditorium, Frances Perkins Department of Labor Building, 200 Constitution Avenue NW., Washington, DC 20210. The hearing will be reconvened at the Guest Quarters Suite Hotel; 5353 Westheimer Road; Houston, Texas (713–961–9000).

Four copies of written comments must be sent to the Docket Office, Docket No. S–012A; U.S. Department of Labor, Occupational Safety and Health Administration; Room N2439 Rear; 200 Constitution Avenue NW.; Washington, DC 20210.

Four copies of each notice of intention to appear and testimony and evidence that will be introduced into the hearing record must be sent to: Mr. Tom Hall; U.S. Department of Labor, Occupational Safety and Health Administration;

Room N3647; 200 Constitution Avenue NW.; Washington, DC 20210

FOR FURTHER INFORMATION CONTACT:

Hearing: Mr. Tom Hall; U.S. Department of Labor, Occupational Safety and Health Administration; Room N3647; 200 Constitution Avenue NW.; Washington, DC 20210 (202–523–8615). For additional information on how to submit a notice of intention to appear, see the section on public participation below.

Proposal: Mr. James F. Foster; U.S. Department of Labor, Occupational Safety and Health Administration, Room N3647; 200 Constitution Avenue NW.; Washington, DC 20210 (202–523–8148).

SUPPLEMENTARY INFORMATION:

Comments and Information Requested

On April 29, 1988, OSHA published a proposed standard for the control of hazardous energy sources (lockout/tagout) in the **Federal Register** (53 FR 15495). The requirements of the standard were proposed to protect employees from the unexpected release of hazardous energy while maintenance, repair or servicing is being conducted on machines, equipment or systems. Interested persons were given until June 28, 1988, to submit written comments on the proposal, to file objections, and to request a public hearing. In response to the comments received to date, OSHA has decided to extend the comment period and to schedule an informal public hearing on the issues discussed below.

Public Hearing

OSHA has received 87 comments on the proposal, including 24 requests for a hearing. In response to the objections raised and hearing requests received, and in accordance with section 6(b)(3) of the Occupational Safety and Health Act, OSHA has scheduled an informal public hearing to begin on September 22, 1988. This hearing will be held to examine the following issues raised in the requests for a hearing:

(1) The International Molders and Allied Workers Union (Exhibit (Ex.) 2–6); the United Paperworkers International Union (Ex. 2–12); the United Steelworkers of America (Ex. 2–27); the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) (Ex. 2–29 and 2–79); and the Virginia State American Federation of Labor and Congress of Industrial Organizations (Virginia AFL–CIO) (Ex. 2–44) objected to the proposal not requiring the use of both locks and tags for all energy isolation. They contend that just tagging out a machine or equipment does not provide adequate protection. By contrast, the Edison Electric Institute (EEI) (Ex. 2–33) stated in their hearing request that "Electric utilities have long used tagging systems successfully to protect their workers." OSHA requests information on the need to specify lockout *and* tagout as opposed to lockout *or* tagout as the necessary and sufficient means to protect employees during the servicing or maintenance of machines or equipment. OSHA also solicits comments and supporting rationale on what additional precautions, procedures and safeguards are necessary and should be mandated to allow the use of only locks or tags, respectively.

(2) The Oil, Chemical and Atomic Workers International Union (OCAW) (Ex. 2–11, 2–16, 2–17, 2–19, 2–23, 2–24, 2–25, 2–30, 2–48, 2–65, 2–82, and 2–84), and the United Steelworkers of America (Ex. 2–27) objected to the performance language of the standard. OSHA requests comments on which provisions, if any, of the proposed standard should be stated in more specific terms, and the reasons for any suggested changes.

(3) The United Steelworkers of America (Ex. 2–27); the International Union, United Automobile, Aerospace and Agriculture Implement Workers of America (UAW) (Ex. 2–29 and 2–79); and the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) (Ex. 2–42) objected to the exclusion of certain industries and activities from coverage by this proposed standard. Their comments include objections to the exclusion of construction, agriculture, maritime, oil and gas well drilling industries and the public utilities. Some of these commenters also stated that applying the standard only to servicing and maintenance is too narrow, whereas, the exclusion of so-called minor repairs, adjustments and operation is too broad. Additionally, the exclusion of requirements for cord and plug type equipment is considered unwarranted by these commenters.

In the preamble of the proposal (53 FR 15504), OSHA explained its reasons for limiting the scope of the proposal to general industry, and also indicated why specific exemptions were provided. However, in response to the hearing requests, OSHA requests information on whether or not there is a need to expand the scope and application of this standard to include a greater number or type of industries and activities than was proposed, together with data and evidence which would support such expansion.

(4) The United Steelworkers of America (Ex. 2–27) and the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) (Ex. 2–29 and 2–79) objected to the general nature of the training requirements. These commenters stated that the training requirements should list the subject material on which the employees will be trained and state the frequency at which any retraining must be conducted. OSHA requests information on the appropriate form and content of the required training, and whether the standard should specify a minimum frequency for retraining.

(5) The International Union, United Automobile and Agricultural Implement Workers of America (UAW) (Ex. 2–29 and 2–79) objected to the failure of OSHA to include requirements for employee participation in the formulation of lockout/tagout procedures and training programs. OSHA solicits information on the need or desirability for the standard to provide explicitly for such participation.

Public Participation

Extension of Comment Period

Interested persons are invited to submit written comments on the issues raised in this notice. Written comments must be postmarked by September 22, 1988. Four copies of these comments must be submitted to the Docket Office, Docket No. S–012A; U.S. Department of Labor, Occupational Safety and Health Administration; Room N2439 Rear; 200 Constitution Avenue NW.; Washington, DC 20210 (Telephone (202) 523–7894). All materials submitted will be available for inspection and copying at this address.

Additionally, under section 6(b)(3) of the Occupational Safety and Health Act, and 29 CFR Part 1911, an opportunity to testify orally concerning the issues raised in this notice will be provided at an informal public hearing.

Notice of Intention to Appear

Persons desiring to participate at the hearing, including those who previously requested that a public hearing be held, must file a notice of intention to appear with Mr. Tom Hall; U.S. Department of Labor, Occupational Safety and Health Administration; Division of Consumer Affairs, Room N–3647; 200 Constitution Avenue NW.; Washington, DC 20210 (202–523–8615). This notice must be postmarked by September 8, 1988. The notice of intention to appear, which will be available for inspection and copying at the OSHA Docket Office (address previously listed), must contain the following information:

1. The name, address and telephone number of each person who will testify;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The location at which the person wishes to make the presentation;
5. The specific issues that will be addressed;
6. A detailed statement of the position that will be taken with respect to each issue addressed;
7. Whether the party intends to submit documentary evidence; and
8. A summary of the evidence proposed to be adduced at the hearing.

Filing of Testimony and Evidence Before the Hearing

Any party requesting more than 10 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide, in quadruplicate, the complete text of the testimony including all documentary evidence, to the OSHA Division of Consumer Affairs. This material will be available for inspection and copying at the Docket Office. This material must be postmarked by September 8, 1988. Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 10 minute presentation and may be requested to return for questioning at a later time. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

OSHA emphasizes that the hearing is open to the public, and that interested persons are welcome to attend. However, only persons who have filed proper notices of intention to appear at the hearing will be entitled to ask questions and otherwise participate fully in the proceeding.

Conduct of the Hearing

The hearing will commence at 9:30 a.m., on September 22, 1988, in the Auditorium, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210, with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911, including the powers:

1. To regulate the course of the proceedings;

2. To dispose of procedural requests, objections and comparable matters;

3. To confine the presentation to the matters pertinent to the issues raised;

4. To regulate the conduct of those present at the hearing by appropriate means;

5. In the Judge's discretion, to question and permit questioning of any witness; and

6. In the Judge's discretion, to keep the record open for a reasonable stated time to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

At the conclusion of the Washington session, the hearing will recess and reconvene in Houston, Texas at 9:30 a.m. on September 27, 1988. It is important that participants indicate whether they will be testifying in Washington, DC, or Houston, Texas, so that adequate time may be allotted for their presentations.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. The proposed standard will be reviewed in light of all testimony and written submissions received as part of the record, and a standard will be issued, or a determination will be made not to issue a standard, based on the entire record of the proceeding, including the earlier written comments and evidence received from the public.

Authority

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

It is issued pursuant to Sec. 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655); Secretary of Labor's Order No. 9–83 (48 FR 35736); and 29 CFR Part 1911.

Signed at Washington, DC this 4th day of August 1988.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 88–17973 Filed 8–8–88; 8:45 am]

BILLING CODE 4510–26–M

Pension and Welfare Benefits Administration

29 CFR Part 2510

Employee Retirement Income Security Act; Proposed Regulation Relating to the Definition of Adequate Consideration; Notice of Hearing

AGENCY: Department of Labor.

ACTION: Notice of hearing.

SUMMARY: This document contains a notice of a hearing regarding proposed regulations under the Employee Retirement Income Security Act of 1974 (the Act of ERISA) and the Federal Employees' Retirement System Act of 1986 (FERSA). The proposed regulations clarify the definition of the term "adequate consideration" provided in section 3(18)(B) of the Act and section 8477(a)(2)(B) of FERSA for assets other than securities for which there is a generally recognized market. The proposed regulations were set forth in a notice of proposed rulemaking published in the **Federal Register** at 53 FR 17631 (May 17, 1988).

DATES: The hearing will be held Wednesday, August 31, 1988 beginning at 9:15 a.m. e.s.t. If adopted as proposed, the regulation will be effective for transactions taking place after the date 30 days following publication of the regulation in final form.

ADDRESSES: The hearing will be held in Room S–4215 A, B & C of the Department of Labor Building, 200 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Daniel J. Maguire , Esq., Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210, (202) 523–9596 (not a toll-free number) or Mark A. Greenstein, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, (202) 523–7901 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On May 17, 1988, the Department of Labor (the Department) published a notice of proposed rulemaking in the **Federal Register** (53 FR 17631) relating to the definition of adequate consideration under section 3(18)(B) of ERISA and section 8477(a)(2)(B) FERSA. In that notice, the Department invited all interested persons to submit written comments concerning the proposed regulation on or before July 18, 1988.

The Department has received a number of comments requesting to testify at a public hearing. In view of these requests, and the importance of

the proposed regulations, the Department has decided to hold a hearing on the proposed regulations on Wednesday, August 31, 1988 at 9:15 a.m. e.s.t. in Room S–4215 A, B & C of the Department of Labor Building, 200 Constitution Avenue NW., Washington, DC.

Any interested person who wishes to be assured of an opportunity to present oral comments at the hearing should submit by 3:30 p.m. e.s.t., August 24, 1988: (1) A written request to be heard, and (2) an outline (preferably five copies) of the topics to be discussed, indicating the time allocated to each topic. The request to be heard and accompanying outline should be sent to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N–5671, U.S. Department of Labor, Washington, DC 20210, and marked "Attention: Adequate Consideration Hearing." Individuals who do not file written comments regarding the proposed regulations many nonetheless request to make oral comments at the hearing.

The Department will prepare an agenda indicating the order of presentation of oral comments. In the absence of special circumstances, each commentator will be alloted ten minutes in which to complete his presentation. Information about the agenda may be obtained on or after August 29, 1988 by telephoning Mark A. Greenstein, Washington, DC (202) 523–7901 (not at toll free number). Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments. The hearing will be transcribed.

Notice of Public Hearing

Notice is hereby given that a public hearing will be held on Wednesday, August 31, 1988 regarding proposed regulations (published at 53 17631, May 17, 1988) under section 3(18)(B) of ERISA and section 8477(a)(2)(B) of FERSA relating to the definition of adequate consideration. The hearing will be held beginning at 9:15 a.m. e.s.t., in Room S–4215 A, B & C of the Department of Labor Building, 200 Constitution Avenue NW., Washington, DC.

Signed at Washington, DC this 29th day of July, 1988.

David M. Walker,

Assistant Secretary of Labor, Pension and Welfare Benefits Administration, United States Department of Labor.

[FR Doc. 88–17953 Filed 8–8–88; 8:45 am]

BILLING CODE 4950–29–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 88–6]

Registration of Claims to Copyright Mandatory Deposit of Machine-Readable Copies; Proposed Rulemaking

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking is issued to inform the public that the Copyright Office of the Library of Congress is considering adoption of new regulations for deposit of certain machine-readable copies. The amendments would revoke the exemption from mandatory deposit, pursuant to section 407 of the Copyright Act of 1976, of machine-readable copies and require deposit of works published in IBM or Macintosh formats for use in the collections of the Library.

DATES: Comments should be received on or before October 11, 1988.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail to: Library of Congress, Department 100, Washington, DC 20540. If delivered by hand, copies should be brought to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20559. Telephone: (202) 287–8380.

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

SUPPLEMENTARY INFORMATION:

1. Background

Under section 407 of the Copyright Act of 1976, Title 17 of the United States Code, the owner of copyright, or of the exclusive right of publication, in a work published with notice of copyright in the United States is required to deposit two copies (or, in the case of sound recordings, two phonorecords) of the work in the Copyright Office for the use or disposition of the Library of Congress. The deposit is to be made within three months after such publication. Failure to make the required deposit does not affect copyright in the work, but may subject the copyright owner to fines and other monetary liability if the failure is continued after a demand for deposit is made by the Register of Copyrights. As a qualification of these general provisions, section 407 also provides that the Register of Copyrights "may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy or phonorecord with respect to any categories."

In reliance on this authorization, the Copyright Office, with the approval of the Librarian of Congress, established regulations governing deposit at 37 CFR Chap. II § 202.19, § 202.20, and § 202.21. Section 202.19 establishes the standards governing mandatory deposit of published copies and phonorecords for the Library of Congress. Section 202.20 concerns the required deposit when application is made for registration of a copyright claim with the Copyright Office under section 408 of title 17, U.S.C. Section 202.21 allows deposit of identifying material in lieu of copies or phonorecords in certain cases. In addition, the Library of Congress published its Best Edition Statement specifying the required deposit in instances where two or more different editions were published with notice of copyright.

At the time these policies were first implemented in 1978, machine-readable copies were not widely marketed to the public at large. For this reason, the Library of Congress decided to exempt all works published solely in machine-readable formats from mandatory deposit. The deposit of machine-readable works for purposes of copyright registration was generally established as identifying material comprising the equivalent of the first and last 25 pages of the work.

Since the time these policies were announced, great changes have occurred. As a result of the great popularity of the personal computer, computer software and data bases are in wide public demand. In response to these public needs, the Library has established a Machine-Readable Collections Reading Room. The Reading Room will provide access to two categories of important machine-readable copies.

The first category is standard data that traditionally has only been available in print form (encyclopedias, census figures, standard reference publications, etc.). With the development of computer technology, many standard reference materials have become available in whole or in part in machine-readable form. The Library desires to provide patrons access to these machine-readable reference sources.

Second, the Library desires to provide patrons access to computer software in

IBM or Macintosh formats for the purposes of study and evaluation and to obtain information. One of the primary purposes of this software collection is to allow scholars in the future to study the computer revolution going on today.

The Library is well aware of the significant value of the machine-readable copies that will be available in the reading room. For this reason, use of the terminals will be monitored in order to prevent copying. Library staff rather than library patrons will maintain physical control of the disks and other machine-readable copies. No lending of copies to patrons or other institutions is contemplated.

2. Proposed Regulation

In order to build the collections of the Machine-Readable Collections Reading Room, the Library proposes to eliminate the existing broad exemption with respect to machine-readable copies. In order to avoid imposing hardship on software publishers, however, the Library proposes generally to limit the required deposit to one copy of the best edition, rather than the traditional two copies. Additionally, the Library will not demand published data bases that are available *only online.*

Section 202.19 governing mandatory deposit would be changed in two places. Section 202.19(c)(5) would limit the exemption for machine-readable copies to automated databases available only online. Section 202.19(d) would be modified by adding a new subparagraph (vii) allowing for deposit of only one machine-readable copy, except where a copy-guard system is used. In the latter case, two copies are required.

In implementing mandatory deposit for machine-readable copies, the Library intends to demand only copies of works appearing in the formats designated in the Best Edition Statement. As additional assistance to software publishers, the Library does not intend to demand software that requires the utilization of a password or other special authorization.

Demands for deposit pursuant to section 407 will be made, of course, only with respect to works or versions of works that are themselves original works of authorship, eligible for protection under Title 17 of the United States Code.

When final regulations are promulgated, they will be applied prospectively against works published with notice of copyright in the United States for the first time on or after the effective date of the regulations.

If the proposed changes in the mandatory deposit regulation are adopted, the copies demanded by the Library will differ from the identifying material required for copyright registration. The variance occurs because of the lack of standardization of hardware. The Examining Division is required to examine for copyrightable authorship. Machine-readable copies are generally unsuitable for this task because they require utilization of expensive, and often different, hardware. For the present, the Copyright Office continues to require human-readable deposits for examination. The Machine-Readable Collections Reading Room, on the other hand, can only utilize works in those machine-readable formats for which it has acquired hardware. The Copyright Office and the Library have noted the problem and will monitor technological developments and confer with the industry to find a solution as soon as standardization of equipment and budgets permit.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (Title 5, Chapter 5 of the U.S. Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.[1]

List of Subjects in 37 CFR Part 202

Claims, Claims to copyright, Copyright, Registration requirements.

Proposed Regulations

In consideration of the foregoing, the Copyright Office proposes to amend Part 202 of 37 CFR, Chapter II as set forth following the Appendix below.

PART 202—[AMENDED]

Appendix to Part 202 [Amended]

Appendix—"Best Edition" of Published Copyright Works For The Collection of the Library of Congress is amended by adding a new section VIII governing machine-readable copies. Present section VIII (Works existing in more than one medium) is renumbered to IX. New section VIII is proposed to read as follows:

* * * * *

VIII. Machine-Readable Copies

A. Computer Programs

1. With documentation and other accompanying material rather than without.
2. Not copy-protected rather than copy-protected (if copy-protected then with a backup copy of the disk(s)).
3. Format:
a. PC–DOS or MS–DOS (or other IBM compatible formats, such as XENIX):
i. 5¼" Diskette(s).
ii. 3½" Diskette(s).
iii. Optical media, such as CD-ROM—best edition should adhere to prevailing NISO standards.
b. Apple MacIntosh:
i. 3½" Diskette(s).
ii. Optical media, such as CD-ROM— best edition should adhere to prevailing NISO standards.

B. Computerized Information Works, Including Statistical Compendia, Serials, or Reference Works

1. With documentation and other accompanying material rather than without.
2. With best edition of accompanying program rather than without.
3. Not copy-protected rather than copy-protected (if copy-protected then with a backup copy of the disk(s)).
4. Format:
a. PC–DOS or MS–DOS (or other IBM compatible formats, such as XENIX):
i. Optical media, such as CD–ROM—best edition should adhere to prevailing NISO standards.
ii. 5¼" Diskette(s).
iii. 3½" Diskette(s).
b. Apple MacIntosh:
i. Optical media, such as CD–ROM—best edition should adhere to prevailing NISO standards.
ii. 3½" Diskette(s).

1. The authority citation for Part 202 would continue to read as follows:

Authority: Copyright Act, Pub. L. 94–553, 90 Stat. 2541 (17 U.S.C. 702).

2. Section 202.19(c)(5) would be revised and § 202.19 would be amended by adding a new paragraph (d)(2)(vii) to read as follows:

§ 202.19 Deposit of published copies or phonorecords for the Library of Congress.

* * * * *

(c) * * *

(5) Automated databases available only online in the United States but not including automated databases distributed only in the form of machine-readable copies (such as magnetic tape or disks, punch cards, or the like) from

[1] The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e. "all actions taken by the Register of Copyrights under this title (17)," except with respect to the making of copies of copyright deposits). (17 U.S.C 706(b)). The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA–FOIA requirements.

which the work cannot ordinarily be visually perceived except with the aid of a machine or device, and computerized information works in the nature of statistical compendia, serials, and reference works. Also works published in a form requiring the use of a machine or device for purposes of optical enlargement (such as film, filmstrips, slide films and works published in any variety or microform), and works published in visually perceptible form but used in connection with optical scanning devices, are not within this category and are subject to the applicable deposit requirements.

* * * * *

(d) * * *

(2) * * *

(vii) In the case of published computer programs and published computerized information works, such as statistical compendia, serials, and reference works that are not copy-protected, the deposit of one complete copy of the best edition as specified in the current Library of Congress Best Edition Statement will suffice in lieu of the two copies required by paragraph (d)(1) of this section. If the works are copy-protected, two copies of the best edition are required.

* * * * *

Dated: July 25, 1988.

Ralph Oman,

Register of Copyrights.

Approved by

James H. Billington,

The Librarian of Congress.

[FR Doc. 88-17870 Filed 8-8-88; 8:45am]

BILLING CODE 1410-07-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-366, RM-6260]

Radio Broadcasting Services; Jupiter, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Dennis L. Johnson, which proposes to allot Channel 288A to Jupiter, Florida as a second FM service, at coordinates 26-56-30 and 80-05-36.

DATES: Comments must be filed on or before September 23, 1988, and reply comments on or before October 11, 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: Daniel F. Van Horn, Arent, Fox, Kintner, Plotkin, and Kahn, 1050 Connecticut Avenue NW., Washington, DC 20036-5339.

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. 88-366, adopted June 29, 1988, and released August 3, 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. 88-17886 Filed 8-8-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-356, RM-6324]

Radio Broadcasting Services; Dahlonega, GA and Murphy, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Andrews Broadcasting Company, proposing to allot Channel 282A to Dahlonega, Georgia, as its first FM service at coordinates 34-35-06 and 84-02-37. To permit the use of Channel 282A at Dahlonega, petitioner has requested that Channel 274A be substituted for Channel 282A at Murphy, North Carolina at coordinates 35-07-12 and 84-02-06.

DATES: Comments must be filed on or before September 23, 1988, and reply comments on or before October 11, 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: Dan J. Alpert, Baker & Hostetler, 1050 Connecticut Avenue NW., Suite 1100, Washington, DC 20036 (Counsel 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. 88-356, adopted June 29, 1988, and released August 3, 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. 88-17887 Filed 8-8-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-370, RM-6311]

Radio Broadcasting Services; Idaho Falls, ID

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by AJP Investment Co., Inc., which proposes to allot Channel 288C to Idaho Falls, Idaho, as a fourth FM service using city reference coordinates 43–29–30 and 112–02–00.

DATES: Comments must be filed on or before September 22, 1988, and reply comments on or before October 7, 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: Harry P. Warner, 1900 Avenue of the Stars, Suite 2440—Century City, Los Angeles, California 90067. (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. 88–370, adopted June 29, 1988, and released August 1, 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.

The 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. 88–17918 Filed 8–8–88; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88–369, RM–6282]

Radio Broadcasting Services; Savanna and Mt. Morris, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Carroll County Communications, Inc., licensee of Station WCCI(FM), Savanna, Illinois, which seeks to substitute Channel 262B1 for Channel 261A and to modify its license to specify the new channel at coordinates 42–07–49 and 90–09–05. To provide for the Savanna modification it will be necessary to substitute Channel 239A for Channel 263A at Mt. Morris, Illinois at coordinates 42–04–14 and 89–27–04. An Order to Show Cause is being issued to M&M Broadcasting, permittee for Channel 263A at Mt. Morris.

DATES: Comments must be filed on or before September 22, 1988, and reply comments on or before October 7, 1988.

ADDRESSES: 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: Steven A. Lancellotta, Wheeler & Wheeler, Suit 200, 1729 H Street NW., Washington, DC 20006. (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. 88–369, adopted June 29, 1988, and released August 1, 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. 88–17919 Filed 8–8–88; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88–368, RM–6286]

Radio Broadcasting Services; Burnside, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Lenn R. Pruitt, licensee of Station WJDJ(FM), Burnside, Kentucky, which proposes to substitute Channel 230C2 for Channel 230A at Burnside, and to modify his Class A license to specify the new channel, at coordinates 37–08–30 and 84–30–00.

DATES: Comments must be filed on or before September 22, 1988, and reply comments on or before October 7, 1988.

ADDRESSES: 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: Lenn R. Pruitt, P.O. Box 32, Greensburg, Kentucky 42743. (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. 88–368, adopted June 29, 1988, and released August 1, 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. 88–17888 Filed 8–8–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–355, RM–6396]

Radio Broadcasting Services; Indian Springs, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Claire B. Benezra to allot Channel 257A to Indian Springs, Nevada, as it first local FM service. Channel 257A can be allotted to Indian Springs in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 36–34–30 and West Longitude 115–40–06. However, before the allotment can be made, petitioner is requested to furnish additional information concerning the status of Indian Springs as a community for allotment purposes, since it is neither listed in the 1980 U.S. Census nor incorporated.

DATES: Comments must be filed on or before September 22, 1988, and reply comments on or before October 7, 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: Charles A. Magnuson, Carl T. Jones Corporation, 7901 Yarnwood Court, Springfield, Virginia 22153 (Engineering Consultant to petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–355, adopted June 30, 1988, and released August 1, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* 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. 88–17889 filed 8–8–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–442; RM–6011]

Radio Broadcasting Services; Stamford, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed by Jon Bruce Thoen, formerly permittee of Station KZOM(FM), Channel 221A, Stamford, Texas, proposing the substitution of Channel 246C2 for Channel 221A at Stamford, because of his failure to demonstrate a continuing interest in the proposal. With this action, this proceeding is terminated.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

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. 87–442, adopted June 30, 1988, and released August 1, 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.

Steve Kaminer,

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

[FR Doc. 88–17890 Filed 8–8–88; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 53, No. 153
Tuesday, August 9, 1988

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

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Environmental Impact Statement; Oglethorpe Power Co.

AGENCY: Rural Electrification Administration, USDA.

ACTION: Adoption of final environmental impact statement and availability of information supplement.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmetal Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provision of NEPA (40 CFR Parts 1500–1508), and REA Environmental Policies and Procedures (7 CFR Part 1794), is adopting the "Final Environmental Impact Statement—Rocky Mountain Project, No. 2725—Georgia" (FEIS) prepared by the Federal Power Commission (now known as the Federal Energy Regulatory Commission (FERC)) and the "Final Supplement to the FEIS Rocky Mountain Project, No. 2725" prepared by FERC as REA's Final Environmental Impact Statement for its Federal action. Notice is also hereby given that the REA is issuing an Information Supplement in connection with a request for REA financing assistance for ownership participation in the 760 megawatt Rocky Mountain Pumped Storage Hydroelectric Project (Project) by Oglethorpe Power Corporation (OPC).

FOR FURTHER INFORMATION CONTACT: Mr. Alex M. Cockey, Jr., Director, Southeast-Area Electric, Rural Electrification Administration, room number 0270, South Agriculture Building, Washington, DC 20250–1500, telephone number (202) 382–8436 or Mr. Dale R. Murphy, Project Director, Oglethorpe Power Corporation, 2100 East Exchange Place, Tucker, Georgia 30085–1349, telephone number (404) 496–7796.

SUPPLEMENTARY INFORMATION: The Project is located at Rocky Mountain on Heath Creek in Floyd County, Georgia, 10 miles northwest of the City of Rome. It involves the construction of a hydroelectric facility that will store water at the base of Rocky Mountain in 3 reservoirs totaling 1,200 acres to be created by impounding Heath Creek. A 221-acre reservoir will be constructed at the top of Rocky Mountain. During off-peak hours, water from the lower reservoir will be pumped to the upper reservoir through a system of penstocks, a horizontal tunnel and a vertical shaft in Rocky Mountain. During peak hours when additional generating capacity is needed, the water in the upper reservoir will be released through Rocky Mountain to a powerhouse and back into the lower reservoir. The Project also includes 2.7 miles of 230 KV transmission line and a switching station. Georgia Power Company (GPC) started construction on the Project in 1978 and estimates that it is 15 percent complete today. Extensive clearing of the site has already taken place. Alternatives to OPC's involvement in the Project include no action, load management/conservation, construction of generating resources, and the purchase of power. A more detailed description of the Project is provided in the Information Supplement.

The FEIS for the Project was issued by the Federal Power Commission in May 1976 in connection with the licensing of the Project to GPC. FERC issued the Final Supplement to the FEIS in June 1981, in connection with the relocation of the lower reservoir dam, construction of two smaller dams and a permanent diversion channel. On January 28, 1988, FERC issued an order transferring the license to construct, maintain, and operate the project from GPC to OPC and GPC subject to the filing at FERC of the instruments evidencing the transfer of the Project. OPC and GPC propose to own the Project as tenants in common. OPC will be acquiring a majority interest in the Project and assume the responsibility for completion and operation of the Project subject to obtaining requisite approvals.

REA has reviewed the FEIS and the Final Supplement to the FEIS and has independently determined that these documents together meet the standards for an adequate environmental impact statement. In addition, REA has reviewed other documents including an environmental report submitted by OPC, the articles contained in the FERC license for the project related to mitigating environmental impacts, and amendments to the FERC license. REA has independently determined that there are no substantial changes in the Project and no significant new circumstances or information relevant to environmental concerns related to its Federal action of approving OPC's participation in the Project. Pursuant to 40 CFR 1506.3 of the CEQ regulations and 7 CFR 1794.81(b) of REA's Environmental Policies and Procedures, REA is adopting the FEIS and the Final Supplement to the FEIS as its Final Environmental Impact Statement for its Federal action. In accordance with 7 CFR 1794.90(c), REA has determined the purposes of NEPA will be furthered by preparing an Information Supplement. REA will circulate a copy of its Information Supplement, the FEIS and the Final Supplement to the FEIS to interested parties or agencies with specific expertise related to the project including those receiving the Federal Power Commission's Draft EIS and FERC's Draft Supplement to the EIS for the Project. Copies of the Information Supplement, the FEIS and Final Supplement to the FEIS will be made available to the public and other interested parties.

The Information Supplement provides a description of the Project and the extent to which it has been completed by GPC, describes how it differs from the proposed facilities as described in the FERC FEIS, and discusses OPC's need for the Project and the alternatives to the proposed action. The Information Supplement also discusses the information considered by REA in adopting the FERC FEIS and Final Supplement to the FEIS as REA's Final Environmental Impact Statement for its Federal action related to the Project. Also covered briefly are the environmental impacts of the Project identified in the FEIS and Supplement to the FEIS, recent comments received from the U.S. Fish and Wildlife Service, and a review of articles in the FERC license for the Project that are related to the protection of environmental quality.

Copies of the REA's Information Supplement, the FEIS and the Final

Supplement to the FEIS may be examined or obtained from REA or OPC during regular business hours at the addresses provided in this notice. These three documents are being sent to the Sara Hightower Regional Library, 606 West First Street, Rome, Georgia 30161 (telephone (404) 291–7568) and the Cave Spring Public Library, P.O. Box 339, Cave Spring, Georgia 30124 (telephone (404) 777–3346) so they will be available for public review. Both libraries are in the vicinity of the project area.

OPC will have published in the *Cartersville Herald Tribune* and the *Rome News Tribune* a notice containing the same information provided herein. A paid advertisement referring the reader to the notice will be included in each newspaper. Questions or comments concerning REA's action related to this project should be submitted within 30 days to REA at the address provided in this notice. The 30-day period will begin on the date of this **Federal Register** notice or the date of a legal notice and paid advertisement published for OPC, whichever comes later. REA will take no final action related to the project prior to the expiration of this comment period. REA, at the time it makes its decision regarding the Project, shall prepare a public Record of Decision (ROD). Any person, organization or government body which desires to be notified when a ROD is available should contact REA at the address provided herein.

Date: August 3, 1988.

Jack Van Mark,

Deputy Administrator, Program Operations.

[FR Doc. 88–17963 Filed 8–8–88; 8:45 am]

BILLING CODE 3410–15–M

COMMISSION ON CIVIL RIGHTS

Oklahoma Advisory Committee; Agenda and Notice to Public; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Oklahoma Advisory Committee to the Commission previously announced in volume 53 FR 29075 (August 2, 1988) has a new date, time, meeting room, and purpose. The meeting will convene at 9:30 a.m. and adjourn at 4:00 p.m. on September 1, 1988, at the Lincoln Plaza Hotel Conference Center, Senate Room, 4445 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105. The purpose of the meeting is to obtain information through a community forum concerning civil rights issues affecting Native Americans in Oklahoma.

Dated in Washington, DC, August 3, 1988.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 88–17929 Filed 8–8–88; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration.

Title: Overseas Trade Fair Certification Program: Application and Evaluation.

Form Numbers: Agency—ITA–4100P and ITA–4103P, OMB—0625–0130.

Type of Request: Revision of a currently approved collection.

Burden: 85 respondents; 640 reporting hours.

Average Hours Per Response: 7.5 hours.

Needs and Uses: The International Trade Administration (ITA) designed the Overseas Trade Fair Certification Program to encourage private sector show organizers to develop, operate, and manage U.S. industry participation in trade fairs overseas. The application form (ITA–4100P) provides specifics about a proposed project that will allow ITA to determine if the trade fair and the requesting organization stand a reasonable chance of success and if it meets ITA's promotion program objectives and general selection criteria. The evaluation form (ITA–4103P) is used by (1) the show organizer to critique the event as well as the government's performance and (2) by the overseas post to provide basic analysis of the event. Evaluation of the results gives feedback to both the private sector organizer and ITA for repeating certification of future editions of the fair.

Affected Public: Businesses or other for profit; small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: John Griffen, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3208 New Executive Office Building, Washington, DC 20503.

Dated: August 2, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–17905 Filed 8–8–88; 8:45 am]

BILLING CODE 3510–CW–M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: 1988 Farm and Ranch Irrigation Survey.

Form Number: Agency—88–A62, OMB—none.

Type of Request: New.

Burden: 200,000 responses; 14,400 reporting hours. Average hours per response—.72.

Needs and Uses: This survey provides measures relevant to the use of water. Competition for limited water resources is high. Federal and state agencies, the irrigation industry, agricultural producers, and universities will use the data.

Affected Public: Irrigated land users.

Frequency: Every five years.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Francine Picoult, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 2, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–17906 Filed 8–8–88; 8:45 am]

BILLING CODE 3510–CW–M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Application for Authorized Chart Agent.

Form Numbers: NOAA—49–74; OMB—0648–0164.

Type if Request: Extension of a currently approved collection.

Burden: 600 respondents; 150 reporting hours; average hours per response—.25 hours.

Needs and Uses: NOAA produces nautical and aeronautical charts, which are sold to the public through chart agents. Businesses must apply to become agents. The information provided is used to assure that applicants are financially responsible and have a sufficient potential market to justify the costs of maintaining an account.

Affected public: Small businesses or organizations.

Frequency: On occasion (One application per respondent).

Respondent's Obligation: Required to obtain a benefit.

OMB Desk Officer: John Griffen, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 2, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–17907 Filed 8–8–88; 8:45am]

BILLING CODE 3510–CW–M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities.

Form Number: NOAA—N/A; OMB—0648–0151.

Type of Request: Extension of a currently approved collection.

Burden: 21 respondents; 200 reporting hours; average hours per response—10 hours.

Needs and Uses: U.S. citizen who may incidently take marine mammals in activities other than commercial fishing may request that NOAA issue regulations allowing such a take, which would otherwise violate the Marine Mammal Act. If regulations are issued, persons may apply for letters of authorization for a take; if a letter is issued the respondent must file a report on the take. The information is used to determine that proposed takes fall under the provisions and goals of the Marine Mammal Act.

Affected Public: Individuals, state and local governments, businesses or other for-profit institutions, and federal agencies.

Frequency: On occasion and annually.

Respondent's Obligation: Required to obtain a benefit.

OMB Desk Officer: John Griffen, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 3, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–17908 Filed 8–8–88; 8:45 am]

BILLING CODE 3510–CW–M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Marine Mammals: General Incidental Take Permits, Small Take Exemptions, and Certificates of Inclusion.

Form Number: Agency—N/A; OMB—0648–0083.

Type of Request: Reinstatement of a previously approved collection.

Burden: 2,687 respondents; 1,115 reporting hours; average hours per response—.41 hours.

Needs and Uses: Commercial fishermen who may incidently take marine mammals in their fishing activities must apply for a waiver to the moratorium in the Marine Mammal Protection Act. The information is used to determine that proposed takes fall under the provisions and goals of the Marine Mammal Act.

Affected Public: Businesses or other for-profit institutions, small businesses or organizations.

Frequency: Annually, biennially.

Repondent's Obligation: Required to obtain a benefit.

OMB Desk Officer: John Griffen, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 3, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–17909 Filed 8–8–88; 8:45 am]

BILLING CODE 3510–CW–M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration (EDA).

Title: Application for Finanical Assistance.

Form Number: Agency—ED–201; OMB—0610–0025.

Type of Request: Extension of a currently approved collection.

Burden: 20 respondents; 2,000 reporting hours.

Average Time Per Response: 100 hours.

Needs and Uses: EDA uses this application to determine whether an applicant for financial assistance meets the statutory and credit standards established to get a loan guarantee.

Affected Public: Businesses or other for-profit institutions and small businesses or organizations.

Frequency: On occasion.

Repondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: John Griffen, 395–7340.

Agency: Economic Development Administration (EDA).

Title: Current and Project Employee Data.

Form Numbers: Agency—ED–612; OMB—0610–003.

Type of Request: Extension of a currently approved collection.

Burden: 800 respondents; 600 reporting hours.

Average Time Per Response: 45 minutes.

Needs and Uses: EDA uses this form as its basic instrument to find out from applicants, recipients, and other parties, what kind of jobs are being created or saved, and when.

Affected Public: State or local governments, businesses or other for-profit institutions and non-profit institutions.

Frequency: On occasion and annually.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: John Griffen, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 3, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–17910 Filed 8–8–88; 8:45 am]

BILLING CODE 3510–07–M

Commercial Space Advisory Committee; Partially Closed Meeting

AGENCY: Office of the Associate Deputy Secretary, Commerce.

SUMMARY: Pursuant to the **Federal Register** notice of July 28, 1988, the Commercial Space Advisory Committee has been established to advise the Secretary of Commerce on matters of implementation and institutionalization of the National Space Policy and Commercial Space Initiative, as announced February 11, 1988, and to attempt to determine the most productive course to be taken by this country relating to its commercial space goals.

TIME AND PLACE: August 10, 1988 from 9:30 a.m. to 10:30 p.m. The meeting will take place in Room 1413, U.S. Department of Commerce.

AGENDA FOR OPEN SESSION: 9:30–10:30 a.m.

Welcome by Secretary Verity, introduction of Committee members, and an overview of the Committee's purpose and objectives.

CLOSED SESSION: 10:30–12:30 a.m.

Members will receive and discuss briefing materials, some of which will be classified, on the various sectors of the commercial space market and the President's National Space Policy and Commercial Space Initiative.

SUPPLEMENTARY INFORMATION: The time and date of the Partially Closed Meeting for the Commercial Space Advisory Committee as announced in the **Federal Register** on July 20, 1988, is hereby changed to August 10, 1988 from 9:30–10:30, instead of August 12, 1988, from 9:30–4:00. There will be no afternoon session as previously scheduled, and changes to the agenda and meeting location are noted.

FOR FURTHER INFORMATION CONTACT: Laura L. Boyle, Program Director, Office of Commercial Space Programs, U.S. Department of Commerce, Room 7064, Washington, DC 20230, Telephone: 202/377–8125.

Date: August 5, 1988.

Shellyn McCaffrey,

Associate Deputy Secretary.

[FR Doc. 88–18113 Filed 8–8–88; 8:45 am]

BILLING CODE 3510–CW–M

National Oceanic and Atmospheric Administration

King and Tanner Crab Fisheries

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

ACTION: Notice of availability of a draft environmental assessment and regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) and request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has prepared a draft EA/RIR/IRFA in conjunction with a new Fishery Management Plan for King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands Area (FMP). The purpose of this notice is to solicit public comments on the draft EA/RIR/IRFA and the new FMP which focuses specifically on the management role of Federal and State agencies when making preseason and inseason decisions.

DATE: Comments on the draft EA/RIR/IRFA and the new FMP are due by 5:00 p.m. on September 5, 1988.

ADDRESSES: Comments should be addressed to Ray Baglin, Fishery Biologist, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802.

Copies of the draft EA/RIR/IRFA and the draft implementing regualtions are available upon request by calling 907–271–2809 or at one of the following locations: (1) Alaska Crab Coalition, 3901 Leary NW., Suite 6, Seattle, WA; (2) Alaska Department of Fish and Game, Unisea Building, Dutch Harbor, AK; (3) North Pacific Fishing Vessel Owner's Association, Fishermen's Terminal C–3, Room 218, Seattle, WA; and (4) United Fishermen's Marketing Association, Fishermen's Hall, Kodiak, AK.

FOR FURTHER INFORMATION CONTACT: Ray Baglin, 907–586–7230.

SUPPLEMENTARY INFORMATION: The Council directed its crab plan team to prepare an FMP for King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands area in December 1986. A committee of Council members and industry representatives was established to work with the plan team during the development process. The plam team reviewed the issues and identified and analyzed the biological, socioeconomic, and management impacts of various alternative solutions for public and Council consideration based on all available information.

The Council is asking for opinions of the fishing community and other affected individuals regarding which alternatives should be approved. It is hoped that the draft EA/RIR/IRFA will help the public provide constructive feedback to aid the Council in its deliberations. At their September 28–30, 1988, meeting in Anchorage, the Council will make its final decision and submit the FMP and supporting documentation to the Secretary of Commerce for implementation. The Council will accept oral testimony at the September meeting, however, such testimony should be limited to clarification of earlier written comments and recommendations about the Council's

choice rather than submission of new informatioin.

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

Dated: August 4, 1988.

Ann D. Terbush,

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

[FR Doc. 88-17990 Filed 8-5-88; 9:31 am]

BILLING CODE 3510-22-M

Public Advisory Committee for Trademark Affairs; Meeting

AGENCY: Patent and Trademark Office.

ACTION: Notice.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the open meeting of the Public Advisory Committee for Trademark Affairs.

Date: The Public Advisory Committee for Trademark Affairs will meet from 10:00 a.m. until 4:00 p.m. on September 27, 1988.

Place: U.S. Patent and Trademark Office, 2121 Crystal Drive, Crystal Park 2, Room 912, Arlington, Virginia.

Status: The meeting will be open to public observation; approximately twelve (12) seats will be available for the public on a first-come-first-served basis. If time permits, oral comments by the public of three (3) minutes on each topic within the agenda below will be allowed. Written comments and suggestions will be accepted before or after the meeting on any of the matters discussed. Copies of the minutes will be available upon request.

Matters to be Considered: The agenda for the meeting is as follows:

(1) Implementation of Proposed Intent-to-Use Legislation

(2) Automation Activities

(3) Application Processing and Prosecution and Registration Maintenance

(4) TTAB Proposed Rule Amendments

Contact Person for More Information: For further information, contact Carlisle E. Walters, Office of the Assistant Commissioner for Trademarks, Room CPK2-910, Patent and Trademark Office, Washington, DC 20231. Telephone: (703) 557-7464.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 88-17945 Filed 8-8-88; 8:45 am]

BILLING CODE 3510-16-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Hungarian People's Republic

August 3, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 10, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: The current limits for Categories 433, 434, 435, 442, 443, 444, 445/446 and 448 are being adjusted, variously, for shift added, shift subtracted, carryover and carryfoward.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987). Also see 53 FR 50, published on January 4, 1988; and 53 FR 17096, published on May 13, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 3, 1988.

Commissioner of Customs,
Department of the Treasury Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives of December 30, 1987 and May 10, 1988 concerning imports of certain wool and man-made fiber textile products, produced or manufactured in the Hungarian People's Republic and exported during the periods which began, in the case of Categories 433, 434, 435, 443, 444, 445/446 and 448, on January 1, 1988; and, in the case of Category 442, on November 1, 1987; and extend through December 31, 1988.

Effective on August 10, 1988 the directives of December 30, 1987 and May 10, 1988 are amended to include adjustments to the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Hungary:

Category	Adjusted Limit [1]
443	8,961 dozen.
434	7,800 dozen.
435	11,097 dozen.
442	22,050 dozen.
443	102,298 numbers.
444	72,677 numbers.
445/446	38,703 dozen of which not more than 29,027 dozen each shall be in Categories 445 and 466.
448	22,936 dozen.

[1] The limits have not been adjusted to account for any imports exported after October 31, 1986 for Category 442; and December 31, 1987 for Categories 433, 434, 435, 443, 444, 445/446 and 448.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-17904 Filed 8-8-88; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Recruiting Incentives Survey; No Form; and No OMB Control Number.

Type of Request: Resubmission.

Average Burden Hours/Minutes Per Response: 20 minutes.

Frequency of Response: One-time.

Number of Respondents: 15,000.

Annual Burden Hours: 5,000.

Annual Responses: 15,000.

Needs and Uses: The Recruiting Incentives Survey, will measure the

attitudes of high school students towards an array of actual or possible Army recruiting incentives and career opportunities using a methodology which can determine quantitatively the magnitude of the importance of the incentive.

Affected Public: Individuals or households.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Edward Springer at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from Ms. Rascoe-Harrison WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone (202) 746–0933.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 4, 1988.

[FR Doc. 88–17922 Filed 8–8–88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

August 2, 1988.

The USAF Scientific Advisory Board Arnold Engineering Development Center Advisory Group will meet on 30 August 1988, from 8:00 a.m. to 4:00 p.m., and on 31 August 1988, from 8:00 a.m. to 2:30 p.m., at Arnold AFB, TN, in the A&E Building Conference Room.

The purpose of this meeting is to receive classified briefings and hold classified discussions on selected Air Force ground test facilities requirements and programs.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88–17930 Filed 8–8–88; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Education Appeal Board Hearings; Intent to Compromise Claim; University of Wisconsin-Milwaukee

AGENCY: Department of Education.

ACTION: Notice of intent to compromise claim.

SUMMARY: The Department intends to compromise a claim against the University of Wisconsin-Milwaukee now pending before the Education Appeal Board (EAB), Docket No. 2(266)88 (20 U.S.C. 1234a(f)).

DATE: Interested persons may comment on the proposed action by submitting written data, views, or argument on or before September 23, 1988.

ADDRESS: Comments should be addressed to Richard B. Mellman, Esq., Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue SW. (Room 4091, FOB–6), Washington, DC 20202.

SUPPLEMENTARY INFORMATION: The claim in question arose from an audit, performed by the Department's Office of Inspector General, of the migrant education High School Equivalency Program (HEP) at the University of Wisconsin-Milwaukee (the University) during the four years ending August 31, 1986. Under this program, authorized by section 418A of the Higher Education Act of 1965, as amended (20 U.S.C. 1070d–2), institutions of higher education receive grants on a competitive basis to assist specially recruited high school-aged migrant students obtain the equivalent of a secondary school diploma and then gain employment or enrollment in an institution of higher education or other post-secondary institution. During these four years the Department provided the University $1,359,479 of HEP funds.

The program that the University conducted during this period had between 81 and 132 participating migrant students per year. Some resided in the Milwaukee area. Others were recruited from a broad geographical area stretching from the East Coast to the mid-West. The students' educational program lasted approximately three months, although those needing greater assistance attended for longer periods. HEP funds paid the administrative and instructional costs of the University's program as well as food, housing, and other support costs of participating students. Departmental regulations provide that HEP funds must be spent in a manner that is consistent with the grantee's project application and the Education Department's General Administrative Regulations in 34 CFR Parts 74 and 75.

During the course of the audit, the auditors focused on what they considered to be the University's excessive use of HEP funds to defray certain of the program's administrative and support costs. These costs included charges to the HEP program for (1) a significant amount of unused dormitory space that the University reserved for residential HEP students, (2) meals in University cafeterias that exceeded the number that enrolled HEP students could have eaten, (3) the salary and travel expenses (for over 16,000 miles of travel) of the University's recruiter between August, 1982 and January, 1983, a period for which little documentary support for his work activities existed, (4) penalties attributable to violations of various University policies governing the scheduled use of its vehicles, (5) grant funds that the University never spent, and (6) related indirect costs. Based on these findings, the Acting Chief of the Department's Business Management Branch, Grants and Contracts Service, notified the University in a final audit determination dated December 10, 1987, that the University had to return a total of $48,943 for its improper expenditure of HEP funds.

In December of 1987, the University repaid to the Department $7,667 of funds the audit determination specified had not been spent (plus $154 of indirect costs that the audit determination did not identify). The University appealed to the EAB its liability for $34,799 of the remaining $41,276 that the audit claim required it to repay. In doing so, the University did not contest its liability for $712 in fleet car penalties, $5,285 in the costs of meals charged to students housed in dormitories, and $480 of related indirect costs.

The Department proposes to compromise the full amount of the remaining $41,276 claim for $30,000. This proposal stems principally from a number of existing factual and legal disputes about the Department's claim.

Excessive housing costs ($14,900) represent the largest element in the Department's claim. A significant proportion of dormitory space charged to HEP funds was unused, perhaps because of inadequate recruitment. Over the four-year period that was audited, the actual vacancy rate exceeded the 15 percent rate projected in the University's approved grant applications. However, those applications also specified that HEP

students would be housed in suites. Therefore, the University has claimed that, in approving the grants, the Department had accepted the University's dormitory costs as fixed costs of the grants. Since the University's possible failure to serve sufficient migrant students is not a part of the audit determination, the University has contended that the Department's approval of its applications constitutes approval of the housing costs in question.

In the area of commuter meal costs (approximately $4,000), the University has presented a recreation of data on the number of enrolled HEP students that, while not directly linked to meal charges, could explain some of the excess in meal charges that the audit determination attributes to commuters. Finally, University records do not adequately suggest how its sole migrant student recruiter spent his time between August of 1982 and January of 1983 when he was largely on a travel status. However the conclusion that both his salary and fringe benefits ($7,034) and travel reimbursement ($5,946) for that period be returned might be partially offset by the migrant student recruitment that apparently did occur during this five-month period.

Given each of these factors, the percentage of the claim the University has agreed to repay, and the cost of litigating the claim through the appeal process, the Department has determined that it would not be practical or in the public interest to continue this proceeding. Moreover, the Department is satisfied that since the University no longer operates a HEP program, the practices that resulted in the claim will not recur.

The public is invited to comment on the Department's intent to compromise this claim. Additional information may be obtained by writing to Richard B. Mellman, Esq., at the address given at the beginning of the notice.

(20 U.S.C. 1234a(f))

(Catalog of Federal Domestic Assistance No. 84–141 Migrant Education—High School Equivalency Program)

Dated: August 3, 1988.

Bruce M. Carnes,

Acting Deputy Under Secretary for Management.

[FR Doc. 88–17934 Filed 8–8–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Financial Assistance Award; Benedict College

AGENCY: Department of Energy.

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that it plans to award a grant to Benedict College to conduct an HBCU (Historically Black Colleges and Universities) regional workshop. The term of the grant will be for one year; DOE funding level is approximately $44,902. Pursuant to § 600.7(b) of the Financial Assistance Rules, 10 CFR Part 600, DOE has determined that eligibility for this grant award shall be limited to Benedict College.

Procurement Request Number: 09–88SR18055.000.

Project Scope: Benedict College will conduct a workshop to inform HBCU's in the Southeastern United States of the opportunities available in the HBCU program. Invitations will be sent to approximately 59 HBCU's inviting each to send two (2) representatives. DOE funds will pay for travel and lodging for these representatives. The three-day workshop will be held in Augusta, GA. The objectives of the workshop are: (1) To increase participation of HBCU's in DOE's research and development activities in both nuclear and non-nuclear programs; (2) to develop long and short-term interactions between DOE and HBCU's; and (3) to implement the President's HBCU initiative.

Benedict College is a predominantly black institution located in Columbia, SC. The participation of Historically Black Colleges and Universities (HBCU's) in federally supported research, education and training is relatively limited. In order to overcome some of these limitations, the President's Executive Order 12320 directed federal agencies to increase the participation of HBCU's in federally-funded programs and to strengthen their capabilities to provide quality education. This award represents an effort to strengthen the HBCU community and provide the HBCU's within the Southeastern United States an opportunity to more fully understand the HBCU program.

DOE has determined that this award to Benedict College on a restricted eligibility basis is appropriate.

FOR FURTHER INFORMATION CONTACT: Ronald D. Simpson, Chief, Contracts and Procurement Branch, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802. Telephone: (803) 725–2096.

Issued in Aiken, SC, on July 25, 1988

P.W. Kaspar,

Manager, Savannah River Operations Office.

[FR Doc. 88–17868 Filed 8–8–88; 8:45 am]

BILLING CODE 6450–01–M

Compliance with the National Environmental Policy Act (NEPA); Amendments to the DOE NEPA Guidelines

AGENCY: Department of Energy.

ACTION: Notice of proposed amendments to the Department of Energy's NEPA guidelines.

SUMMARY: The Department of Energy (DOE) proposes to amend section D of its NEPA guidelines by adding to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas under Section 3 of the Natural Gas Act, in cases not involving new construction. A categorical exclusion is a class of DOE actions which normally does not require the preparation of either an environmental impact statement (EIS) or environmental assessment (EA). The DOE also proposes to change the classification in section D of approval or disapproval of an import/export authorization involving minor new construction from the type of actions normally requiring preparation of an EIS to the type of actions normally requiring preparation of an EA but not necessarily an EIS. Public comment is invited on these proposals. Pending final adoption or rejection of the proposed amendment, the Department of Energy will utilize the revised classifications for the approval/disapproval of import/export authorizations.

DATE: Comments by September 8, 1988.

FOR FURTHER INFORMATION CONTACT:

Carol M. Borgstrom, Director, Office of NEPA Project Assistance, U.S. Department of Energy, 1000 Independence Avenue, SW., Room 3E–080, Washington, DC 20585, (202) 586–4600

William Dennison, Esq., Acting Assistant General Counsel for Environment, U.S. Department of Energy, 1000 Independence Avenue, SW., Room 6A–113, Washington, DC 20585, (202) 586–6947.

SUPPLEMENTARY INFORMATION:

A. Background

On March 28, 1980, the Department of Energy (DOE) published in the **Federal Register** (45 FR 20695) final guidelines for implementing the procedural provisions of NEPA as required by the Council on Environmental Quality (CEQ) regulations (40 CFR 1500–1508). In accordance with these regulations, section D of the DOE guidelines lists three classes of agency action: (1) Those which normally require an environmental impact statement (EIS); (2) those which normally require an

environmental assessment (EA) but not necessarily an EIS and; (3) those which normally do not require either an EA or an EIS. This third class was identified pursuant to § 1507.3(b)(2)(ii) of the CEQ regulations and are termed "categorical exclusions." The CEQ regulations define a categorical exclusion as a "category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required." The regulations permit agency discretion, in that "an agency may decide in its procedures or otherwise to prepare environmental assessments even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect." The DOE NEPA guidelines state that "DOE may add actions to or remove actions from the categories in Section D based on experience gained during the implementation of the CEQ regulations and these guidelines." Pursuant to the guidelines, substantive revisions are to be published in the **Federal Register** and adopted only after opportunity for public review. The last amendments to section D were published in the **Federal Register** on December 15, 1987, concurrently with republication of the DOE's NEPA guidelines in their entirety.

B. Proposed Amendments

The DOE proposes to further amend section D of its guidelines by adding to the list of categorical exclusions in section D, the approval or disapproval of an import/export authorization for natural gas under Section 3 of the Natural Gas Act, in cases not involving new construction. In addition, the DOE proposes to change the classification in section D of approval or disapproval of an import/export authorization involving minor new construction from the type of actions normally requiring preparation of an EIS to the type of actions normally requiring preparation of an EA but not necessarily an EIS. This action is being taken because ten years of experience has shown that DOE's original estimate as to which actions would normally require preparation of an EIS or an EA was overly conservative. Normally, natural gas import/export approval actions involving minor new construction have not required the preparation of an EIS. Normally, actions in which no new construction is involved have not required the preparation of either an EA or an EIS. The proposed amendments to section D, therefore, would establish categories that are appropriate for the type of action involved, consistent with DOE's experience.

The listing of certain classes of actions which are categorically excluded from NEPA only raises a presumption that any such actions will not significantly affect the quality of the human environment. For those circumstances where the DOE has reason to believe that a significant import could arise from the grant or denial of a specific natural gas import/export authorization, the DOE's NEPA guidelines provide that individual proposed actions will be reviewed to ascertain whether an EA or an EIS would be required for any individual action which is listed in Subpart D of the guidelines as categorically excluded from NEPA. Likewise, actions classified as normally requiring an EA but not necessarily an EIS will be evaluated on a case by case basis.

Currently, Section D of the DOE NEPA guidelines lists the approval/disapproval of a natural gas import/export license under Section 3 of the NGA in cases not involving new construction as an action which normally requires an EA. Where new construction is involved, Section D classifies the approval/disapproval of an import/ export license for natural gas as the type of action which normally requires the preparation of an EIS.

During the more than ten years since the inception of the DOE in 1977, the ERA has granted 123 blanket import/export authorizations for short-term and spot market sales of natural gas and 61 authorizations for long-term natural gas import/export arrangements. In addition, 34 approval actions have been taken on applications for extension, amendment or reassignment of existing authorizations for a complete final case action total, as of May 31, 1988, of 218. Of this total, nine cases involved new construction and 209 did not. Each of the cases not involving new construction where individually examined and found not to have a significant effect on the human environment. Accordingly, based on this experience, the DOE has concluded that such actions or functions do not normally constitute major federal actions significantly affecting the quality of the human environment and should be added to the list of categorical exclusions in Section D of the DOE NEPA guidelines. Although under the proposed change, such actions will be presumed not to cause any significant direct or indirect environmental impact, this presumption does not foreclose an environmental review if unusual circumstances indicate that such an action might, in a particular case, have a significant environmental impact.

This proposed change to section D will reduce the regulatory burden on pesons wishing to import or export natural gas through existing facilities by eliminating environmental studies that are not warranted. It is noted in this regard that the Federal Energy Regulatory Commission (FERC) has recently included in the categorical exclusion category the sale, exchange and transportation of natural gas that does not involve the construction of new facilities and the approval of natural gas import/export sites in which no new construction is invovled. See 18 CFR 380.4(a)(27) and (31) (52 FR 47897, December 17, 1987), as amended by 53 FR 8177, March 14, 1988.

The DOE also proposes to change the classification in Section D of its NEPA guidelines for approval actions on natural gas imports/exports that involve minor new construction. As stated above, DOE NEPA guidelines now provide that all natural gas import/export authorization approval actions involving new construction normally require preparation of an EIS. However, the DOE's experience over the past ten years reveals that of the nine cases which involved new construction, four required preparation of an EA, two required the preparation of an EIS, and three were terminated before any NEPA determination was made. Those cases which required preparation of an EA involved relatively minor new construction, such as construction of a short pipeline, adding new connections, looping or compression to an existing natural gas interstate pipeline, or converting an existing interstate oil pipeline to an interstate natural gas pipeline using the existing right-of-way. Conversely, the two cases which required preparation of an EIS involved in one case the construction of 36 miles of pipeline looping and a new gas-fired combined cycle powerplant, and in the other case, 257 miles of pipeline looping in five states plus related facilities. Accordingly, the DOE proposes to include natural gas import/export approval actions involving minor new construction in the category of actions in section D that normally require an EA but no necessarily an EIS.

If section D is amended, as proposed, approval actions that involve major pipeline construction, the construction of LNG terminals, regasification or storage facilities, or other related facilities; or the significant expansion of such facilities, pipelines, or LNG terminals would continue to be classified as actions normally requiring

an EIS. Thus, no change is being proposed for actions involving new construction of major industrial facilities or significant expansion of such facilities.

Comments concerning the proposed amendments to section D of the DOE's NEPA guidelines should be submitted to Ms. Carol M. Borgstrom at the address given above. Pending final adoption or rejection of the proposed action, the DOE will effect the proposed changes on an interim basis.

Issued in Washington, DC, on August 3, 1988.

Ernest C. Baynard, III,

Assistant Secretary, Environment, Safety and Health.

The DOE NEPA Guidelines are hereby amended in Section D with respect to natural gas actions and functions to read as follows:

DOE NEPA Guidelines

Section A—[no change]
Section B—[no change]
Section C—[no change]
Section D—[Typical Classes of Actions]
* * * * *

CLASSES OF ACTIONS GENERALLY APPLICABLE TO AUTHORIZATIONS TO IMPORT/EXPORT NATURAL GAS PURSUANT TO SECTION 3 OF THE NATURAL GAS ACT

Normally do not require EA's or EIS's	Normally requires EA's but not necessarily EIS's	Normally requires EIS's
Approval of new authorization or amendment of existing authorization which does not involve new construction but only requires operational changes, such as an increase in natural gas throughput, change in transportation or change in storage operations..	Approval or disapproval of an application involving minor new construction, such as a relatively short pipeline, adding new connections, looping or compression to an existing natural gas pipeline or converting an existing oil pipeline to a natural gas pipeline using the same right-of-way..	Approval or disapproval of an application involving major new natural gas pipeline construction or related facilities, such as construction of new liquid natural gas (LNG) terminals, regasification or storage facilities; or a significant expansion of an existing pipeline or related facility, or LNG terminal, regasification or storage facility.

[FR Doc. 88-17986 Filed 8-8-88; 8:45 am]
BILLING CODE 6450-01-M

Bonneville Power Administration

[BPA File No. SCE-86M]

Proposed Modification of Southern California Edison Formula Rate Schedule SC-86 and Opportunity for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice and request for comments. BPA requests in the process of modifying Southern California Edison Formula Rate Schedule SC-86 reference the file designation SCE-86M.

SUMMARY: BPA seeks to modify its existing Southern California Edison Contract Formula Rate Schedule by reopening and supplementing BPA's offical record. This rate is available to the Southern California Edison Company (SCE or Edison) for the purchase of surplus firm power. The existing schedule, SC-86, approved in 1986 by the Federal Energy Regulatory Commission (FERC) for 20 years, defines a rate that is no longer useful for marketing BPA's surplus firm power in today's West Coast energy markets, and is no longer acceptable to SCE. BPA and SCE have negotiated a rate that escalates with SCE's alternate generation cost, *i.e.*, the cost of natural gas and fuel oil. In addition, the proposed rate is bounded by floor and ceiling rates. The proposed rate will recover more revenues than BPA's alternative of sales in the economy energy markets over the term of the power sale.

Responsible Official: Shirley R. Melton, Director, Division of Contracts and Rates, is the official responsible for the modification of the SC-86 formula rate schedule.

DATE: Any interested person may submit written comments to BPA no later than 5 p.m., September 16, 1988, at the address listed below.

ADDRESSES: Written comments should be submitted to Ms. Jo Ann C. Scott, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Sugai, Public Involvement Office, at the address listed above, 503-230-3478. Oregon callers outside Portland may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048. Information may also be obtained from:

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 243, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-328-3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, 301 Yakima Street, Room 307, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Terry G. Esvelt, Puget Sound Area Manager, 201 Queen Anne Avenue, Suite 400, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-522-6226.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Tom Blankenship, Boise District Manager, Room 494, 550 West Fort Street, Boise, Idaho 83724, 206-334-9137.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Original SC-86 Contract Formula Rate Schedule

i. Proceedings Before BPA

BPA's original SC-86 rate proposal was published in the **Federal Register** on March 31, 1986. *See* Proposed Southern California Edison Contract Rates and Opportunity for Public Review and Comment, 51 **Federal Register** 10911 (1986). This notice initiated an original agency proceeding under section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act). 16 U.S.C. 839e(i). Subsequently, a prehearing conference was held before an independent hearing officer on April 8, 1986, at which time 13 intervenors were granted party status and a procedural schedule was established.

BPA's initial proposal included the written testimony and exhibits of its witness. Parties were afforded the opportunity to conduct discovery on BPA's rate proposal, and then filed direct and rebuttal testimony on April 28, 1986. Additional rebuttal testimony was filed by BPA on May 9, 1986. Cross-examination of all witnesses was conducted on May 14, 1986. The parties filed briefs on May 27, 1986. BPA issued a Draft Record of Decision on June 13, 1986. In response to the Draft Record of Decision, the parties presented oral arguments to the Administrator's designees on June 20, 1986.

Pursuant to section 7(i)(5) of the Northwest Power Act, 16 U.S.C. 839e(i)(5), the Administrator issued a final Record of Decision on July 10, 1986,

based on the record developed during the hearings. This record included the hearing transcript, exhibits, briefs, and all other materials which were submitted to or developed by the Administrator during the course of the hearings.

The final Record of Decision, along with the record upon which it was based, was filed with FERC on July 14, 1986, together with a request for expedited final approval of the rate schedule for a 20-year period. 51 **Federal Register** 26578 (1986).

ii. Proceeding Before the Federal Energy Regulatory Commission

In response to BPA's request for expedited final approval of the SC–86 formula rate schedule, FERC waived the 180-day advance filing requirement (18 CFR 300.10(a)(3)(iii)(1986)) and granted final, 5-year approval of the formula rate schedule, including its nonfirm energy component, on September 29, 1986. *United States Department of Energy—Bonneville Power Administration*, 36 FERC ¶ 61,350 (1986).

Subsequently, on rehearing, the Commission granted full 20-year approval of the SC–86 formula rate schedule:

> [W]e have determined to modify our earlier order and to approve the rates for a period of 20 years for the following reasons. Given the relatively small influence of the proposed sale on the adequacy of BPA's total annual revenues, the Commission finds that it is reasonable to exercise its discretion in this particular instance and defer to BPA's judgment to some extent. Moreover, the annual escalator provisions in the proposed contract do serve to distinguish the proposed contract from the contract that concerned the Commission in considering rates for the Southwestern Power Administration. At the same time, BPA's general rate filings, occurring at intervals no less frequent than every 5 years, will allow the Commission an opportunity to review BPA's rates in total to determine whether BPA is recovering its costs and repaying the Federal investment. We also believe that approval of the contract allows BPA to market surplus power at higher rates than it might otherwise receive, which should in turn enhance BPA's ability to meet its obligations to the Federal treasury. *United States Department of Energy—Bonneville Power Administration*, 37 FERC ¶ 61,345, 62,041 (1986).

B. The Changed Circumstances Necessitating Modification

The SC–86 rate is based on BPA's fully allocated cost of delivering surplus firm power over the Pacific Northwest-Pacific Southwest Intertie. BPA intended that a sale under the rate would provide a stable, long-term revenue stream. At the same time, a sale under the SC–86 rate would assure SCE of predictable costs of power for the long term.

After the SC–86 rate was reviewed in a public process that took several months, the market for surplus power had changed significantly. Prices for the Pacific Northwest's surplus electricity fell as world market prices for natural gas and oil dropped and remained low and unstable for longer than predicted. Natural gas and oil prices also were predicted to be lower over the long term than previously forecast. California utilities were able to generate power less expensively than they could purchase it at fully allocated cost from BPA. BPA suffered declining and unstable revenues from surplus power sales since surplus firm power was sold at low spot market prices. The SC–86 rates appeared less attractive to SCE, and the proposed contract incorporating the SC–86 rate was not signed.

In response to the changing market conditions, BPA and SCE continued to negotiate contract terms and prices that would make a long-term transaction economic for both parties under these changed circumstances. Like the earlier contract proposal, the renegotiated contract, under which deliveries would begin on July 1, 1989, is for the purchase by SCE of 250 MW and 1,173,000 MWh annually. The rate is designed to recover more than would BPA's alternative, that is, continuing to sell surplus firm power in the economy energy market. BPA is protected from much of the instability of the energy market by the rate floor, and SCE is similarly protected by the rate ceiling. And, like the original SC–86 rate, the proposed modified SCE rate for surplus firm power will provide BPA with an economic and stable source of long-term revenues and will provide SCE with predictable prices.

The SC–86 rate schedule approved by FERC in 1986 also contains a formula rate for nonfirm energy which was to be available for application during the capacity-energy exchange phase of the contract. The proposed modified SCE rate schedule does not include a rate for nonfirm energy. The contract includes optional prices for cash payments to BPA from SCE in lieu of returns of energy delivered with capacity during the capacity-energy exchange provided for in the contract, and in lieu of energy delivered to BPA from SCE in exchange for the capacity. If BPA chooses to exercise these options in the future, BPA will ensure that an approved rate schedule accommodates such transactions.

C. Summary of Contract Terms

BPA proposes to sell SCE 250 MW of surplus firm power. The power would be delivered with a take-or-pay obligation at an annual load factor of 53.57%, so long as BPA has sufficient surplus firm energy available. When BPA's planning pursuant to the Agreement for Coordination of Operations among Power Systems of the Pacific Northwest, BPA Contract No. 14–02–48221, shows insufficient surplus firm energy to fulfill the contract, the sale would be converted to a seasonal capacity/energy exchange. The conversion to an exchange could also occur at the option of either SCE or BPA, if specified conditions were to make the power sale uneconomical for either party. BPA would deliver firm power during daytime hours in the summer (June through October) when SCE experiences its peakloads. In this same period, the energy that BPA delivered during the peak daytime hours would be returned by SCE during the offpeak nighttime hours (peaking replacement energy).

In exchange for the summer capacity deliveries, SCE would deliver firm energy to BPA in the winter when BPA experiences its peakloads. In addition to receiving the exchange energy, BPA would also be entitled to request specified amounts of supplemental energy from SCE during the winter. BPA would pay SCE 115% of the variable cost of producing the supplemental energy.

The contract also provides an option for BPA to call on SCE for an additional 624,000 MWh of energy deliveries during a period of 13 calendar weeks, ending no later than April 15 each year, at 115% of SCE's incremental cost. SCE has an option to call on BPA for an additional 250 MW of capacity during the five month period of June through October at the demand charge in BPA's SP–87 contract rate or its successor.

This description of the contract is provided solely to give context to the proposed modified rate. Only the rate is at issue in the hearing.

II. Rate Proposal

A. Modified SC–86 Formula Contract Rate

The following Modified SC–86 Formula Contract Rate is verbatim from the contract:

Section 9(b)—*Surplus Firm Power.* Payment for surplus firm power delivered during the surplus firm power sale shall be at the rate in this section 9(b). The rates specified in this section 9(b) include the Intertie service charge. The effective rate, rate ceiling, rate floor and BASC shall be rounded to the nearest one-tenth of a mill. The rate for surplus firm power is as follows:

(1) *Initial Fiscal Year.* During the period beginning July 1, 1989, through the Fiscal Year ending on September 30, 1989, the rate shall be 28.5 mills/kWh.

(2) *Subsequent Fiscal Years.* (A) For all subsequent Fiscal Years, beginning with the Fiscal Year that starts on October 1, 1989, the rate shall be calculated as follows:

$$R_n = R_{n-1} * \frac{\frac{(OPXDO)_{n-1} + (GPXDG)_{n-1}}{(DO+DG)_{n-1}}}{\frac{(OPXDO)_{n-2} + (GPXDG)_{n-2}}{(DO+DG)_{n-2}}}$$

where:

n = the calendar year during which the Fiscal Year begins;

R_n = the rate, in mills per kilowatthour, for the fiscal year that begins in calendar year n;

R_{n-1} = the rate, in mills per kilowatthour, for the Fiscal Year that begins in calendar year n–1;

OP = the Price of Oil to Electric Utilities in the Pacific Region No. 2 in calendar years (n–1) and (n–2), expressed in dollars per million BTUs and as set forth in Table A–30 of Data Resources, Inc. (DRI) Energy Report as published in the spring of calendar year n (Access Code POILEUB@PAC2);

DO = the Electric Utilities Demand for Oil in the Pacific Region No. 2 in calendar years (n–1) and (n–2), expressed in trillions of BTUs and as set forth in Table A–36 of DRI's Energy Report as published in the spring of calendar year n (Access Code DFOILEUB@PAC2);

GP = the Price of Natural Gas to Electric Utilities in the Pacific Region No. 2 in calendar years (n–1) and (n–2), expressed in dollars per million BTUs and as set forth in Table A–31 of DRI's Energy Report as published in the spring of calendar year n (Access Code PNGEUB@PAC2);

DG = the Electric Utilities Demand for Natural Gas in the Pacific Region No. 2 in calendar years (n–1) and (n–2), expressed in trillions of BTUs and as set forth in Table A–37 of DRI's Energy Report as published in the spring of calendar year n (Access Code DFNGEUB@PAC2).

During the Fiscal Year beginning on October 1, 1911, the rate shall also be changed on April 1, 1992, if the rate calculated using the rate ceiling in section 9(b)(2)(B)(ii) differs from the rate calculated using the rate ceiling in section 9(b)(2)(B)(i).

If the DRI Energy Report, or any of its factors referred to above, ceases to exist or is substantially modified during the term of this Agreement, the Authorized Representatives shall agree upon appropriate replacement factors or reports.

(B) *Rate Ceiling.* The rate for surplus firm power in section 9(b)(2)(A) shall not exceed the rate ceiling determined as follows:

(i) Through March 31, 1992:

$$RC_n = RC_{n-1} * \frac{BASC_n}{BASC_{n-1}}$$

n = The Fiscal Year for which the rate ceiling is being calculated.

n–1 = The Fiscal Year prior to the one for which the rate ceiling is being calculated.

where:

RC_n = The effective rate ceiling during Fiscal Year n, expressed in mills per kilowatthour; 35.0 mills/kWh in the Fiscal Year ending September 30, 1989.

RC_{n-1} = The effective rate ceiling during Fiscal Year n–1, expressed in mills per kilowatthour.

$BASC_n$ = The BPA average system cost (in mills per kilowatthour) as forecast and adopted by BPA in the most recent rate case that determines the generally applicable BPA wholesale power rates to be in effect on October 1 of Fiscal Year n. BPA's average system cost shall equal BPA's total revenue requirement divided by BPA's total energy sales forecasted for the test period of the rate case. The BASC for the Fiscal Year ending September 30, 1989, is 23.2 mills/kWh.

(ii) Effective April 1, 1992:

$$RC_x = RC_{x-1} * \frac{BASC_x}{BASC_{x-1}}$$

x = The Fiscal Year for which the rate ceiling is being calculated.

x–1 = The Fiscal Year prior to the one for which the rate ceiling is being calculated.

where:

RC_x = The effective rate ceiling during Fiscal Year x, expressed in mills per kilowatthour; 36.9 mills/kWh in the Fiscal Year ending September 30, 1989.

RC_{x-1} = The effective rate ceiling during Fiscal Year x–1, expressed in mills per kilowatthour.

$BASC_x$ = The BPA average system cost (in mills per kilowatthour) as forecast and adopted by BPA in the most recent rate case that determines the generally applicable BPA wholesale power rates to be in effect on October 1 of Fiscal Year x. BPA's average system cost shall equal BPA's total revenue requirement divided by BPA's total energy sales forecasted for the test period of the rate case. The BASC for the Fiscal Year ending September 30, 1989, is 23.2 mills/kWh.

(C) *Rate Floor.* (1) The rate for surplus firm power in section 9(b)(2)(A) shall not be less than the rate floor determined as follows:

$$RF_n = RF_{n-1} * \frac{BASC_n}{BASC_{n-1}}$$

n = As defined in section 9(b)(2)(B).

N–1 = As defined in section 9(b)(2)(B).

where:

RF_n = The effective rate floor during Fiscal Year n, expressed in mills per kilowatthour; 28.5 mills/kWh in the Fiscal Year ending September 30, 1989.

RF_{n-1} = The effective rate floor during Fiscal Year n–1, expressed in mills per kilowatthour.

$BASC_n$ = As defined in section 9(b)(2)(B)

Each time BPA files with FERC a change in its wholesale rates following a general rate adjustment proceeding pursuant to Northwest Power Act section 7(i) (16 U.S.C. 839e(i)), BPA shall provide to Edison such filed rates and the percent change in its BASC for the subsequent year(s) and the resulting rate floor and ceiling for the applicable Fiscal Year. BPA shall also provide to Edison any changes to the BASC that may occur as a result of interim or final FERC approval and shall make resulting adjustments to the rate floor and rate ceiling.

(2) *Rate Floor Adjustment.* The rate floor shall be adjusted downward for the ensuing Fiscal Year when certain threshold levels for oil and gas prices are reached.

(A) For each Fiscal Year through the Fiscal Year ending September 30, 1993, the rate floor shall be adjusted downward if the weighted average price for oil and gas to Edison for the previous calendar year is less than:

(i) 20 mills/kWh in 1987 dollars; and

(ii) The rate floor otherwise in effect.

(B) For each Fiscal Year beginning October 1, 1993, the rate floor shall be adjusted downward if the weighted average price for oil and gas to Edison for the previous calendar year is less than:

(i) 24 mills/kWh in 1987 dollars, and

(ii) The rate floor otherwise in effect.

The rate floor shall be adjusted downward by any difference by which the lower of threshold levels (i) and (ii) above exceeds the weighted average price for oil and gas to Edison for the calendar year immediately prior to the Fiscal Year. If for any Fiscal Year this adjustment becomes effective, Edison shall provide to BPA copies of the appropriate sections of its *Financial and Operating Report* showing Edison's consumption and cost of oil and gas generation upon which the determination was made.

Whenever the rate floor has been adjusted pursuant to this section 9(b)(2)(C)(2), RF_{n-1} shall equal the adjusted rate floor in calculating the new rate floor RF_n for the ensuring Fiscal Year pursuant to section 9(b)(2)(C)(1).

B. Formula Rate Design

The proposed modified rate for surplus firm power is set initially at 28.5 mills per kilowatthour as of July 1, 1989. Beginning October 1, 1989, the initial rate would escalate annually by factors based on the costs to SCE of natural gas and oil, the fuels that determine a significant portion of SCE's generation costs. Natural gas and oil prices would be weighted by utilities' demand for the two fuels. Information on fuel prices and demands would be obtained from Data Resources, Inc. (DRI) as reported for Pacific Region No. 2.

The proposed modified rate for BPA's sale to SCE is bounded by a ceiling and a floor, to be calculated annually, and both escalated based on changes in BPA's average system cost (BASC). The rate ceiling is set initially at the negotiated level of 35.0 mills/kWh. For the period July 1, 1989, through March 31, 1992, this initial rate ceiling level would escalate annually by the increase in BASC. Beginning April 1, 1992, the ceiling is based on an initial rate for fiscal year 1989 of 36.9 mills/kWh (the fully allocated cost of surplus firm power). This rate, escalated at increases in BASC, is the ceiling for the remainder of the contract term.

The rate floor is set initially at 28.5 mills/kWh. Like the rate ceiling, the floor would escalate annually by the increase in BPA's forecasted average system cost. Through fiscal year 1993, if SCE's weighted average price for oil and gas for the previous calendar year is less than the current floor and less than 20 mills/kWh (in 1987 dollars), the rate floor in effect will be adjusted downward. After 1993, if SCE's weighted average oil and gas price for the previous calendar year is less than the current floor and less than 24 mills per kilowatthour (in 1987 dollars), the floor would be adjusted downward.

The proposed rate for the surplus firm power sold under the SCE contract is forecast to recover more than the opportunity cost of the power, that is, spot sales in the short-term economy energy market. BPA also would benefit from the long-term revenue stability received from the proposed 20-year sale to SCE. This revenue stability would enhance BPA's ability to repay the U.S. Treasury as scheduled and keep BPA's customers' rates as low as possible. Similarly, SCE would receive long-term price and supply predictability. BPA's sales and SCE's purchases on the spot market do not provide the parties with such stability or predictability.

III. Relevant Statutory Provisions

The Administrator is authorized under section 5(f) of the Northwest Power Act, 16 U.S.C. 839c(f), to sell surplus firm power. Section 5(f) provides as follows:

> The Administrator is authorized to sell, or otherwise dispose of, electric power, including power acquired pursuant to this and other Acts, that is surplus to his obligations incurred pursuant to subsections (b), (c), and (d) of this section in accordance with this and other Acts applicable to the Administrator * * *.

Section 7 of the Northwest Power Act, 16 U.S.C. 839e, contains a number of general directives that the BPA Administrator must consider in establishing rates for the sale of electric energy and capacity. In particular, section 7(a)(1), 16 U.S.C. 839e(a)(1), provides that

> [s]uch rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law.

Rates established by BPA are effective on a final basis when approved by FERC. 16 U.S.C. 839e.

In addition to the Northwest Power Act, BPA ratemaking is governed by the Federal Columbia River Transmission System Act, 16 U.S.C. 838 *et seq.*, and the Flood Control Act of 1944, 16 U.S.C. 825 *et seq.* BPA power sales are also subject to the provisions of the Pacific Northwest Regional Preference Act, 16 U.S.C. 837 *et seq.*, which operates in conjunction with § 9(c) of the Northwest Power Act, 16 U.S.C. 839f(c), to give Pacific Northwest consumers first call on Federal power generated in the Northwest.

IV. Procedures Governing This Rate Adjustment

Pursuant to Rule 1010.3(c) of Procedures Governing Bonneville Power Administration Rate Hearings, 51 **Federal Register** 7611 (1986) (BPA Procedures), the hearing will be conducted under Rule 1010.10, Expedited Rate Proceedings. The reason for using the expedited procedures is twofold.

First, the contract is subject to termination on March 31, 1989, if BPA has not obtained final approval of the proposed rate from FERC by that date. FERC requires BPA to file rate schedules for which final (not interim) approval is requested not later than 180 days in advance of the proposed effective date. 18 CFR 300.10(a)(3)(iii) (1986). BPA must therefore complete this proceeding and file the proposed rate with FERC by September 30, 1988.

Second, the proceeding involves a single discrete rate of very limited application. The SC–86 rate schedule has been the subject of a previous hearing conducted under section 7(i) of the Northwest Power Act, 16 U.S.C. 839e(i). *See* 51 **Federal Register** 10,911 (1986). That schedule has received final confirmation and approval by FERC. *United States Department of Energy—Bonneville Power Administration*, 37 FERC ¶61,345 (1986). This proceeding should thus be able to be concluded in a timely manner.

Pursuant to Rule 1010.1(d) of BPA Procedures, the Administrator hereby notifies interested persons that procedures in the following sections are waived: §§ 1010.4(d); 1010.8 (with respect to any requirement that the clarification sessions be transcribed); 1010.10(c) and 1010.11(e).

Consistent with the rights of the parties under section 7(i) of the Northwest Power Act, 16 U.S.C. 839e(i), the following procedures will be followed.

A prehearing conference will be held before an independent hearing officer at 9 a.m., August 18, 1988, in room 106 of BPA's Headquarters Building, 905 NE. 11th Street, Portland, Oregon. All parties to the original SC–86 proceeding and all intervenors before FERC are deemed to be parties for purposes of the Modified SC–86 Formula Contract Rate proceeding. Any new intervenor desiring party status must file a written petition with the hearing officer in care of Hearing Clerk—APR, P.O. Box 3621, Portland, Oregon 97208, or Hearing Clerk—APR, 7th Floor East, 905 NE. 11th Street, Portland, Oregon 97232, so as to be received no later than 5 p.m. Tuesday, August 16, 1988. A copy of the petition shall also be served on BPA's Office of General Counsel/APR. The petition shall state the name and address of the person and the person's interest in the outcome of the hearing. Petitioners may designate no more than two persons on whom service will be made. BPA customers and customer groups whose rates are subject to revision in the hearing will be granted intervention, based on a petition filed in conformity with this section. Other petitioners must explain their interests in sufficient detail to permit the hearing officer to determine whether they have a relevant interest in the hearing.

On or before August 18, 1988, BPA will make the prefiled direct testimony and

exhibits of its witness(es) available in its Public Information Center, 1st Floor East, 905 NE. 11th Street, Portland, Oregon. BPA will make its witness(es) available for an informal question and answer session, and will respond to reasonable written data requests concerning the modification of the SC–86 Formula Contract Rate Schedule. Parties will be afforded the opportunity to file direct testimony and conduct reasonable discovery. All litigants will be afforded the opportunity to file rebuttal testimony. All parties will be afforded the opportunity to file briefs, or upon unanimous election of all parties, to present oral argument to the Administrator or his designees. A final record of decision based on the record will be filed with FERC on or before September 30, 1988.

At the prehearing conference, the hearing officer will rule on intervention petitions and oppositions to intervention petitions, establish special rules of procedure considered appropriate, establish a service list and a procedural schedule, and consolidate parties with similar interests into groups for the purpose of jointly sponsoring testimony and expediting cross-examination.

Apart from the formal hearing process, BPA will receive comments and recommendations from participants, who are defined in BPA's procedures as persons who wish to express their views, but who do not intervene as formal parties. This category affords the public the opportunity to participate and have its views considered without assuming the obligations incumbent upon parties. Participants are not entitled to cross-examine witnesses or to be served with documents. However, copies of all testimony, exhibits and other relevant documents will be available to any interested person for review in BPA's Public Information Center. Participants need not attend the hearings in order to have their views included in the record. Written comments will be included in the record provided they are received by September 16, 1988. Procedures for submitting written comments are detailed in the Dates and Addresses sections of this notice.

V. Statement of Issues

Pursuant to Rule 1010.3(f) of BPA Procedures, the Administrator limits the scope of this hearing to issues respecting the modification of the SC–86 Formula Contract Rate Schedule as described in Section II hereof. *See* Rule 1010.2(j) of BPA Procedures. Issues such as proposed contracts or offers, exchange ratios, cash out provisions, optional deliveries of capacity and energy, and the extent and availability of surplus capacity are not rate matters for the purposes of this hearing.

Issued in Portland, Oregon, on August 2, 1988.

Jack Robertson,

Deputy Administrator.

[FR Doc. 88–17985 Filed 8–8–88; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 88–37–LNG]

Distrigas Corp.; Application To Amend Import Authorization

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application to Amend Import Authorization.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on June 22, 1988, of an application from Distrigas Corporation (Distrigas) to amend its current import authorization. Distrigas is requesting that its current authorization to import liquefied natural gas (LNG) from Algeria be amended to reflect changes in its 1976 contract with its supplier, Sonatrach, the Algerian national energy corporation. The contractual changes, among other things, would eliminate the take-or-pay provisions of the 1976 contract, change the pricing provisions to allocate risk between Distrigas and its supplier while maintaining market responsive prices, and extend the term of the 1976 contract to October 1, 2003.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments should be filed no later than 4:30 p.m., e.d.t. on September 8, 1988.

FOR FURTHER INFORMATION CONTACT: Lot Cooke, Natural Gas Division, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room GA–076, Washington, DC 20585, (202) 586–8116. Michael Skinker, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–02, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Distrigas is a wholly owned subsidiary of Cabot Corporation, a Delaware corporation, currently authorized, by an order issued by the ERA on December 31, 1977, in ERA Docket No. 77–011–LNG, to import Algerian LNG pursuant to the Agreement for the Sale and Purchase of Liquefied Natural Gas of April 13, 1976 (1976 Agreement), between Distrigas and Sonatrach. Distrigas and Sonatrach, as part of an overall settlement of disputes and claims between them, reached an agreement styled "amendment No. 3 to the Agreement for the Sale and Purchase of Liquefied Natural Gas of April 13, 1976 (Amendment No. 3)." According to Distrigas, Amendment No. 3 is the result of extensive renegotiation of the 1976 Agreement and is aimed at providing secure volumes of LNG at market responsive prices to the U.S. market.

Amendment No. 3 contemplates the importation of 17 cargoes of LNG annually for a term running from September 15, 1988, through October 1, 2003. The amendment eliminates the prior pricing formula and adopts instead a market oriented concept in which Distrigas and Sonatrach, acting through its wholly owned subsidiary, Sonatrading Amsterdam B.V. (Sonatrading), establish the price for the LNG supplied by Sonatrading at the higher of: (1) The reference price, which is 63% of a price derived from a formula utilizing the price of alternative fuels, (2) the minimum price, which is $1.475 per MMBtu for the contract year September 15, 1988, through September 14, 1988, and increases annually up to $1.730 per MMBtu after September 15, 1991, or (3) 63% of the actual sales price received by Distrigas' affiliate, Distrigas of Massachusetts, for the LNG. The following is a list of prices that have been derived by applying the reference price formula during the 1987/1988 winter months:

Month	Formula price ($/MMBtu)	Reference price (63 percent of formula price) ($/MMBtu)
October 1987	3.108	1.966
November 1987	3.160	1.998
December 1987	3.073	1.943
January 1988	3.045	1.925
February 1988	2.971	1.879
March 1988	2.792	1.766

The average reference price (FOB price) for 1987–1988 would have been $1.923 per MMBtu. After March 15 of each contract year the price for the LNG can be established by mutual agreement.

The transportation costs of the LNG are dealt with in a separate transportation agreement. The transportation cost is derived by an adjustable formula but would be approximately $0.27 per MMBtu.

Amendment No. 3 eliminates the strict take-or-pay provisions of the 1976 Agreement. Although the amended agreement calls for Distrigas to take a minimum of nine of the 17 annual cargoes of LNG, and contemplates the sale of those nine cargoes during the winter months (September 15 through March 15), Distrigas is not obligated to take any cargo if, ten days prior shipping, the reference price is lower than the minimum price. In addition, in the event any of the nine minimum cargoes are scheduled for delivery after March 15 of any contract year, the price shall be as agreed to by Distrigas and Sonatrading.

Amendment No. 3 also includes a make-up provision that would allow Distrigas, to the extent that it took less than 17 cargoes of LNG during a contract year, to purchase additional quantities of LNG in succeeding year(s) until the total of such additional purchases equals the amount by which the original purchases were less than the 17 cargoes of LNG. Further, if at the end of the contract term there are still quantities of LNG remaining to be shipped under the make-up provision, the contract term may be extended for 5 years or until the difference has been delivered, whichever comes first.

Public Comment Procedures:

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. e.d.t., September 8, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316. A copy of Distrigas Corporations application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 4, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–18074 Filed 8–8–88; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for clearance to the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not include information collection requirements contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, or extension; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden, and (13) A brief abstract describing the proposed collection and the respondents.

DATE: Comments must be filed on or before September 8, 1988.

ADDRESS: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards, at the address below.)

FOR FURTHER INFORMATION CONTACT: Carole Patton, Office of Statistical Standards (EI–70), Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586–2222.

SUPPLEMENTARY INFORMATION: If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this Notice, you should advise the OMB DOE Desk Officer of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084.

The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission.
2. FERC–548.
3. 1902–0085.
4. Staff Adjustment Under NGPA Section 502(c).
5. Extension.
6. On Occasion.
7. Mandatory.
8. Businesses or other for profit.
9. 46 respondents.
10. 46 responses.
11. 736 hours.
12. The estimated average hours per response for the FERC–548 is 16 hours per respondent.
13. This reporting requirement is for Commission review of requests for adjustments pursuant to section 502(c) of the NGPA, and in accordance with Part 385, Subpart K of the Commission's Regulations, to certain rules or orders "* * * to prevent special hardship, inequity, or unfair distribution of burdens."

Statutory Authority

Sec. 5(a), 5(b), 13(b), and 52, Pub. L. 93–275, Federal Energy Administration Act of 1974, (15 U.S.C. 764(a), 764(b), 772(b), and 790a).

Issued in Washington, DC, August 3, 1988.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 88–17987 Filed 8–8–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER82–705–004 et al.]

Arkansas Power & Light Co. et al.

Electric Rate, Small Power Production, and Interlocking Directorate Filings

August 3, 1988.

Take notice that the following filings have been made with the Commission:

1. Arkansas Power & Light Company

[Docket No. ER82–705–004]

Take notice that on July 21, 1988, Arkansas Power & Light Company (AP&L) tendered for filing, pursuant to Commission order issued on June 7, 1988, a Compliance Report showing the monthly billing determinants which were modified under this filing, revenue receipt dates, and monthly interest computed for the total refund period from March 1987 through February 1988.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: August 18, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Consolidated Edison Company of New York, Inc.

[Docket No. ER87–488–003]

Take notice that on July 21, 1988, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing Revised Supplements to its Rate Schedules FERC Nos. 60, 66 and 78, agreements to provide transmission service for the Power Authority of the State of New York (Authority). The Supplements provide for a decrease in the monthly transmission charge from $0.93 to $0.82 per kilowatt for transmission of power and energy sold by the Authority to Brookhaven National Laboratory, Grumman Corporation and the Long Island Municipal Distribution Agencies, thus decreasing annual revenues under the Rate Schedules by a total of $75,052.56. The decrease is effective as of July 1, 1987.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: August 18, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Wisconsin Electric Power Company

[Docket No. ER88–534–000]

Take notice that on July 28, 1988, Wisconsin Electric Power Company tendered for filing a revised interconnection agreement between itself and the Board of Light and Power, City of Marquette. Service had previously been rendered under the terms of assigned interconnection agreement accepted for filing by the Commission in Docket No. ER88–173–000.

Wisconsin Electric requests an effective date of June 1, 1988, the date upon which the first transactions under the agreement were conducted. Accordingly, Wisconsin Electric requests waiver of the Commission's notice requirements. The Board of Light and Power joins in the requested effective date.

Copies of the filing have been served on the Board of Light and Power, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: August 18, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Iowa Public Service Company

[Docket No. ER88–535–000]

Take notice that on July 28, 1988, Iowa Public Service Company (IPS) tendered for filing an executive Letter Agreement dated June 23, 1988 whereby IPS will supply Kansas City Power & Light Company (KCPL) with short-term power and associated energy, commencing June 20, 1988 and continuing through September 3, 1988. IPS requests that the negotiated Agreement be made effective as of June 20, 1988.

Comment date: August 18, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Tampa Electric Company

[Docket No. ER88–536–000]

Take notice that on July 28, 1988, Tampa Electric Company (Tampa Electric) tendered for filing a Letter of Commitment providing for the sale Tampa Electric to Seminole Electric Cooperative (Seminole) of 65 megawatts of capacity and energy. Tampa Electric states that the Letter of Commitment is submitted as a supplement to Service Schedule J (negotiated interchange service) under the existing agreement for interchange service between Tampa Electric and Seminole, designated as Tampa Electric Rate Schedule FERC No. 22.

Tampa Electric proposes an effective date of July 29, 1988 for the Letter of Commitment, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Seminole and the Florida Public Service Commission.

Comment date: August 18, 1988, in accordance with Standard Paragraph E at the end of this notice.

Virginia Electric and Power Company

[Docket No. ER88–537–000]

Take notice that on July 28, 1988, Virginia Electric and Power Company (Company) tendered for filing a second addendum to a Settlement Agreement dated as of October 16, 1987 between the Company and Old Dominion Electric Cooperative (ODEC). The addendum would modify the monthly payments made by ODEC and become effective January 1, 1988.

Waiver of the Commission's notice requirements is requested so as to permit an effective date of Janaury 1, 1988.

Copies of the filing have been served on ODEC, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: August 18, 1988, in accordance with Standard Paragraph E at the end of this notice.

7. Louisiana Power & Light Company

[Docket No. ER88–540–000]

Taken notice that on July 29, 1988, Louisiana Power & Light Company

(LP&L) tendered for filing proposed amendments to Electric System Interconnection Agreements between LP&L and the following entities:

Entity	FERC rate Schedule No.
City of Ruston, LA	54
City of Minden, LA	63
Cajun Electric Cooperative, Inc.	64
Town of Jonesville, LA	65
City of Houma, LA	66
Louisiana Energy & Power Authority	72
City of Winnfield, LA	77
Town of Vidalia, LA	78

LP&L states that based on billing determinates for the test year ending December 31, 1988, the proposed amendments will result in an increase in transmission service revenues from such customers of approximately $1,739,000 annually. The proposed amendments also modify the rates and charges under the Electric System Interconnection Agreement for supplemental power service, add a new service schedule for replacement energy service, and clarify certain provisions of the Electric System Interconnection Agreements. LP&L proposes to make the amendments to the Electric System Interconnection Agreements effective on October 1, 1988.

Copies of the filing were served upon each of the affected entities and the Louisiana Public Service Commission.

Comment date: August 18, 1988, in accordance with Standard Paragraph E at the end of this notice.

8. Federal Power Board Company, Inc.

[Docket No. QF88-454-000]

On July 18, 1988, Federal Power Board Company, Inc. (Applicant) of P.O. Box 1425, Augusta, Georgia 30913 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to §292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility which is to be developed in two phases will be located in Augusta, Georgia. Phase I construction commenced May 1987. Phase II construction is scheduled to commence July 198. In Phase I, the facility will consist of 3 recovery boilers, part of No. 1 power boiler, and three steam driven turbine generators with maximum net electric power production capacity of 66.72 MW. During Phase II, in addition to the above, the facility will consist of 3 power boilers, No. 2 and No. 3 recovery boilers, part of No. 1 power boiler, and three steam driven turbine generators. Primary energy sources will be bark and black liquor. Applicant states that small amounts of natural gas, coal, or oil may be burned for non-primary fuel purposes, including start-up, flame stabilization, back up, etc. However, such fossil fuel usage will not exceed 25% of the total fuel input to the facility during any calendar year period. Applicant further states that significant amounts of natural gas and coal will also be burned however, the electric power output associated with such fuels approximately 27 MW, will not be included as part of the qualifying capacity.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-17946 Filed 8-8-88; 8:45am]

BILLING CODE 6717-01-M

[Docket No. RP88-187-001]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 4, 1988.

Take notice that Columbia Gas Transmission Corporation (Columbia) on July 28, 1988, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

To be Effective June 4, 1988

Substitute Twelfth Revised Sheet No. 16B
Substitute Second Revised Sheet No. 16B1
Substitute Second Revised Sheet No. 16B2
Substitute Third Revised Sheet No. 46E
Substitute Second Revised Sheet No. 68
Substitute Second Revised Sheet No. 68A

To be Effective July 29, 1988

Thirteenth Revised Sheet No. 16B
Third Revised Sheet No. 16B1
Third Revised Sheet No. 16B2

Columbia states that these tariff sheets relate to Columbia's June 3, 1988 filing in Docket No. RP88-187-000, which proposed procedures for Columbia's recovery from its customers of take-or-pay and contract reformation costs billed to Columbia by its pipeline suppliers. Specifically, Columbia proposes to:

(A) Revise Section 25 of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, pursuant to ordering paragraphs (B) and (C) of the Commission's July 1, 1988 Order in Docket No. RP88-187-000 and to correct inadvertent clerical errors in certain base and deficiency period volumes reflected for Columbia's customers in the June 3, 1988 filing;[1] and

(B) Supplement its earlier filing to permit it to flow through additional take-or-pay and contract reformation costs to be billed to it by Texas Eastern Transmission Corporation (Texas Eastern) in Docket Nos. RP88-80-004 and RP88-192, relating to costs to be incurred by Texas Eastern from Texas Gas Transmission Corporation and Southern Natural Gas Company, respectively. In addition, Columbia proposes to flow through to its customers amounts billed to it by Tennessee Gas Pipeline Company (Tennessee) for Tennessee's recovery of take-or-pay and contract reformation costs paid to Tennessee's producer suppliers pursuant to Tennessee's filings on June 10, 1988 and July 25, 1988 in Docket No. RP88-191.

Copies of the filing were served upon Columbia's jurisdictional customers and interested state commissions and to each person designated on the official service list compiled by the Commission's Secretary in Docket No. RP88-187-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214

[1] The tariff sheets submitted with the instant filing reflect the revised allocation factors and Fixed Monthly Demand Surcharges resulting from the adjustments to the base and deficiency period volumes. Upon acceptance of this filing, Columbia states that it will adjust the prior billings to its customers to reflect the revised allocation factors and Fixed Monthly Demand Surcharges.

and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1987)). All such motions or protests should be filed on or before August 11, 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. 88–17947 Filed 8–8–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–224–000]

Freeport Interstate Pipeline Co.; Filing

August 3, 1988.

Take notice that on July 29, 1988, Freeport Interstate Pipeline Company tendered for filing Original Volume No. 1 of its FERC Gas Tariff. This filing was tendered pursuant to section 4 of the Natural Gas Act, section 311 of the Natural Gas Policy Act, Part 154 and § 284.7 in connection with Subparts A and B of Part 284 of the Commission's Regulations. The proposed effective date of the tariff is February 6, 1988. The proposed rate filing is more fully described in the filing itself, which is on file with the Commission and open for public inspection.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1987)). All such motions or protests should be filed on or before August 11, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–17948 Filed 8–8–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ88–1–55–000]

Questar Pipeline Co.; Rate Change

August 3, 1988.

Take notice that on July 29, 1988, Questar Pipeline Company (Questar Pipeline) tendered for filing and acceptance Fifteenth Revised Sheet No. 12 to be effective September 1, 1988, to its FERC Gas Tariff, First Revised Volume No. 1.

Questar Pipeline states that the purpose of this filing is to: (1) Adjust the purchased gas costs under Questar Pipeline's sale-for-resale Rate Schedule CD–1 effective September 1, 1988; and (2) to request a temporary waiver of the PGA clause under its Tariff and related Commission regulations to permit recovery of certain firm transportation demand charges from Northwest Pipeline Corporation related to the conversion of contract demand from Northwest's PL–1 sales rate schedule to its TF–1 transportation rate schedule for the period July 1, 1988, through September 30, 1988.

Questar Pipeline further states that Fifteenth Revised Sheet No. 12 shows a commodity base cost of purchased gas as adjusted of $2.02106/Dth for sales under its Rate Schedule CD–1 which is $0.02926/Dth higher than the currently effective rate of $1.99180/Dth. The demand base cost of purchased gas as adjusted is decreased by $1.24189/Mcf to 0.15516/Mcf.

Questar Pipeline has requested any necessary waivers of the Commission's Rules and Regulations to allow the tendered tariff sheet to become effective as proposed, and states that it has provided a copy of the filing to its sales customer and state public service commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 11, 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. 88–17949 Filed 8–8–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD8816281T]

Designation of Tight Formation; Zapata County, Texas, Texas–41; Texas Railroad Commission; Tight Formation Determination

Issued August 4, 1988.

Take notice that on July 18, 1988, the Railroad Commission of Texas (Texas) submitted to the Commission its determination that the Roleta (Wilcox 10,200) Field, located in Zapata County, Texas, qualifies as a tight formation under section 107(c)(5) of the Natural Gas Policy Act of 1978. The application includes the Railroad Commission's order issued June 27, 1988, finding that the proposed addition meets the requirements of the Commission's regulations set forth in 18 CFR Part 271.

Any person desiring to be heard or to protest Texas' determination should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Rules of Practice and Procedure (18 CFR 385.211, 385.214 (1987)). All such comments should be filed within 20 days after publication of this notice in the **Federal Register**. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–17950 Filed 8–8–88; 8:45 am]

BILLING CODE 6717–01–M

Envirosphere Co. a Div. of Ebasco; Proposed Contract Award

SUMMARY: In accordance with Department of Energy (DOE) Acquisition Regulations (DEAR), 48 CFR, Chapter 9, Subpart 909.570–9, the Federal Energy Regulatory Commission (FERC) gives public notice that a contract is being awarded, recognizing the existence of potential organizational conflicts of interest, because it has been determined to be in the best interest of the United States.

FOR FURTHER INFORMATION CONTACT:

John M. Connors, Director, Procurement Division, Room 3106J, 941 North Capitol Street, NE., Washington, DC 20426, Telephone Number (202) 357–5612.

James R. Higgins, Office of Administrative Services, Room 3112A, 941 North Capitol Street, NE., Washington, DC 20426, Telephone Number (202) 357–9082.

Findings

1. The Federal Energy Regulatory Commission (FERC), Office of Hydropower Licensing, Office of Pipeline and Producer Regulation, and Office of Electric Power Regulation, has a requirement for technical support for environmental services relating to environmental assessments and environmental impact statements for hydropower facilities, gas pipelines and electric projects.

2. In response to the solicitation for a contractor to perform this type of effort, all offerors deemed to fall into the competitive range were determined to have the potential for a conflict of interest.

3. In accordance with 48 CFR 909.570–5, Envirosphere Company provided statements disclosing relevant information concerning its interest related to other contractual situations and bearing on whether it has possible organizational conflicts of interest (1) with respect to being able to render impartial, technically sound and objective assistance or advice, or (2) which may give it an unfair competitive advantage.

4. Based on an evaluation of the information provided, it has been determined that there could be potential or perceived conflicts of interest with regard to the work under this contract. The clientele of Envirosphere Company, could potentially have organizational conflicts of interest, as defined at 48 CFR 909.570–9(a), with regard to the work required by the Offices of Hydropower Licensing, Pipeline & Producer Regulation, and Electric Power Regulation, in accordance with 48 CFR 909.570–9(a). In particular, Envirosphere Company derives a portion of its annual income from arrangements with entities that could be affected by the work under this proposed contract.

5. Because no other offeror in the competitive range was found to have little or no likelihood of organizational conflicts of interest and based on the needs of the Commission and the fact that it is doubtful that a firm could perform the requirements of this proposed contract without having a potential or perceived conflict of interest, it is neither feasible nor desirable to disqualify Envirosphere from contract award in accordance with 48 CFR 909.570–9(a)(1). Furthermore, it is not possible to totally avoid the organizational conflict of interest by inclusion of appropriate conditions in the resulting contract, pursuant to 48 CFR 909.570–9(a)(2).

Mitigation

As this will be a level-of-effort type contract in which specific work directives would be given to the contractor by task assignment, the Contracting Officer's Technical Representative and the Contracting Officer will insure that the assigned work does not present a direct conflict of interest by review and approval of the contractor's proposed mitigation plan for each individual task being placed. In addition, the Organizational Conflicts of Interest Special Clause entitled "Organizational Conflicts of Interest—Special Clause (DEAR 952.209–72)," shall be included in the contract.

Determination

In light of the above findings and mitigation, and in accordance with 48 CFR 909.570–9(a)(3), the proposed contract award is in the best interest of the United States.

Date: August 4, 1988.

Vincent E. Mason,

Executive Director, Federal Energy Regulatory Commission.

[FR Doc. 88–17984 Filed 8–8–88; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidation Hearing; Gwendolyn Gladys Evans and Stephen E. Brisker

1. The Commission has before it the following mutually exclusive applications for a new AM station:

Applicant, city and State	File No.	MM Docket No.
A. Gwendolyn Gladys Evans; Laurel, DE.	BP–860904AH	88–340
B. Stephen E. Brisker d/b/a Radio 1170; Falmouth, VA.	BP–861229AC	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. 307(b), All applicants
2. Contingent Comparative, All applicants
3. Ultimate, All applicants

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–17891 Filed 8–8–88; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidation Hearing; Oculus Broadcasting Corp. and Bennett's Broadcasting Co.

1. The Commission has before it the following mutually exclusive applications for a new FM station.

Applicant, city and State	File No.	MM Docket No.
A. Oculus Broadcasting Corp.; Royston, GA.	BPH–870819MH	88–348
B. Bennett's Broadcasting Co; Royston, GA.	BPH–870819MY	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and set forth below in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Comparative, A,B
2. Ultimate, A,B

3. If there is any non-standardized issue in the proceeding, the full text of the issue and the application to which it applies are set forth below in an Appendix to this Notice. A copy of the

complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc. 2100 M Street, NW. Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–17892 Filed 8–8–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearings; Stegus Corp. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Application, city and state	File No.	MM Docket No.
A. Stegus Corp.; Ocean Pines, MD.	BPH–870330MQ	88–342
B. Genesis Communications, Inc. and Judith L. Randolph; Ocean Pines, MD.	BPH–870331MI	
C. Ocean Pines FM Partnership; Ocean Pines, MD.	BPH–870331NQ	
D. Brian Casey; Ocean Pines, MD.	BPH–870331OD	
E. Wiltshire Broadcast Co.; Ocean Pines, MD.	BPH–870331OK	
F. Hartke Communications Corp.; Ocean Pines, MD.	BPH–870331PB	
G. John Geoffrey Wright; Ocean Pines, MD.	BPH–870406KD	
H. Ocean Pines LPB Broadcast Corp.; Ocean Pines, MD.	BPH–870406KF	
I. Malcolm Kahn, George V. Delson, Allen Skolnick & Saul Hertzig d/b/a Ocean Pines Broadcast Co.; Ocean Pines, MD.	BPH–870406KH	
J. The Johns Hopkins Broadcasting Foundation; Ocean Pines, MD.	BPED–870406MA	
K. Owen P. Mills & John A. Borsari d/b/a Ocean Pines Broadcasting Associates; Ocean Pines, MD.	BPH–870330MP (Dismissed Herein)	
L. Alexander W. Soroka d/b/a Ocean Pines Radio Co.; Ocean Pines, MD.	BPH–870406KC (Dismissed Herein)	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used to signify whether the issue in question applies to the particular applicant.

Issue Heading and Applicants

1. Air Hazard, B, G
2. Comparative, A, B, C, D, E, F, G, H, I, J
3. Ultimate, A, B, C, D, E, F, G, H, I, J

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–17893 Filed 8–8–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; United Broadcasting of Idaho, Inc., and Media West, Inc.

1. The Commission has before it the following mutually exclusive applications for a new FM station.

Application, city and state	File No.	MM Docket No.
1. United Broadcasting of Idaho, Inc.; Hayden, ID.	BPH–870730MB	88–347
2. Media West, Inc.; Hayden, ID.	BPH–870730MT	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth below in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue in the proceeding, the full text of the issue and the applicant to which it applies are set forth below in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–17894 Filed 8–8–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Frank Werber and Avila Beach, Ltd.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Frank Werber; Silver City, NM.	BPH–870730MH	88–349
B. Avila Beach, Ltd.; Silver City, NM.	BPH–870730MW	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Financial, A
2. Comparative, A, B
3. Ultimate, A, B

3. If there are any non-standardized issues in this proceeding, the full text of the issues and the applicants to which they apply are set forth in an Appendix

to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–17895 Filed 8–8–88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act of 1974; Proposed New Routine Use to Existing System of Records; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of proposed new routine use to existing system of records; correction.

SUMMARY: This notice corrects the text portion under the headings, **"SUPPLEMENTARY INFORMATION"** and "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" of the notice of proposed new routine use of existing system of records as published in FR Doc. 88–16983 beginning on page 28437 in the **Federal Register** issue of Thursday, July 28, 1988.

In the **"SUPPLEMENTARY INFORMATION"** section, the second paragraph is corrected to delete the words "insurance agents, brokers, adjusters, lending institutions and" from the second sentence. The second sentence should read, "A new routine use is proposed to permit release of policy expiration information to State and Federal agencies and financial instrumentalities which regulate the lending institutions, for carrying out the purposes of the National Flood Insurance Program."

A routine use which was published on page 331 in the **Federal Register** issue of Monday, January 5, 1987, was inadvertently omitted from the notice which was published on July 28, 1988. That routine use provided that "that property address, flood zone identifier, date of policy issue, and value of policy, solely for the purpose of geocoding the flood insurance policy addresses, may be released to private companies engaged in or planning to engage in activities to market or assist in marketing the sale of flood insurance policies under the National Flood Insurance Program." For the convenience of the reader, we are publishing the entire text under the heading "Routine uses of records maintained in the system, including categories of users and the purposes of such uses."

FOR FURTHER INFORMATION CONTACT: Linda M. Keener, FOIA/Privacy Specialist, at (202) 646–3840.

The text portion under the heading "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" is corrected to read as follows:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To property loss reporting bureaus, State insurance departments, and insurance companies investigating fraud or potential fraud in connection with claims, subject to the approval of the Office of Inspector General, FEMA; to insurance agents, brokers adjusters, and lending institutions for carrying out the purposes of the National Flood Insurance Program; to Small Business Administration, the American Red Cross, the Farmers Home Administration, State and local government individual and family grant and assistance agencies, including but not limited to the State of Ohio Disaster Services Agency and the Johnstown, Pennsylvania Redevelopment Authority for determining eligibility for benefits and for verification of nonduplication of benefits following a flooding event or disaster; to Write-Your-Own companies as authorized in 44 CFR 62.63 to avoid duplication of benefits following a flooding event or disaster and for carrying out the purposes of the National Flood Insurance Program; to State and local government individual and family grant agencies so as to permit such agencies to assess the degree of financial burdens toward residents such as States and local government might reasonably expect to assume in the event of a flooding disaster, and to further the flood insurance marketing activities of the National Flood Insurance Program; to State and local government individual and family grant and assistance agencies which furnish to the Federal Insurance Administration the names and addresses of policyholders for purposes consistent with the relocation projects of the Federal Insurance Administration and acquisition projects under the National Flood Insurance Program carried out pursuant to Section 1362 of the National Flood Insurance Act of 1968, as amended, and to State and local government agencies who provide the names and addresses of policyholders and a brief general description of their plan for acquiring and relocating their flood prone properties for review by the Federal Insurance Administrator to ensure that their State and/or local government agency is engaged in flood plain management improved real property acquisitions and relocation projects consistent with the National Flood Insurance Program; and, upon the approval by the Federal Insurance Administrator, that the use is in the furtherance of the flood plain management and hazard mitigation goals of the Agency; to State and local government agencies and municipalities to review National Flood Insurance Program policy and claim files to assist them in hazard mitigation and flood plain management activities and in monitoring compliance with the flood plain management measures duly adopted by the community; *to State governments, federal agencies, and federal financial instrumentalities responsible for the supervision, approval, regulation or insuring or banks, savings and loan associations or similar institutions, all for carrying out the purpose of the National Flood Insurance Program;* the property address, flood zone identifier, date of policy issue, and value of policy, solely for the purpose of geocoding the flood insurance policy addresses, may be released to private companies engaged in or planning to engage in activities to market or assist in marketing the sale of flood insurance policies under the National Flood Insurance Program.

Routine uses may include Nos. 1, 5, 6, and 8 of Appendix A.

Dated: August 3, 1988.

George W. Watson,

Acting General Counsel, Office of General Counsel, Federal Emergency Management Agency.

[FR Doc. 88–17911 Filed 8–8–88; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties

may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 207–009955–003
Title: Star Shipping A/S Joint Service, Chartering and Management Agreement
Parties:
A/S Billabong
Westfal-Larsen & Co. A/S
Star Shipping A/S
Synopsis: The proposed amendment deletes Fred. Olsen & Co. as a party to the agreement. It further modifies the decision making procedures set forth in the agreement due to the reduction in the number of parties participating in the joint service.

Agreement No.: 202–010636–046
Title: U.S. Atlantic-North Europe Conference
Parties:
Atlantic Container Line, B.V.
Orient Overseas Container Line (UK) Ltd.
Hapag-Lloyd AG
Sea-Land Service, Inc.
A.P. Moller-Maersk Line
Gulf Container Line (GCL), B.V.
P&O Containers (TFL) Limited
Compagnie Generale Maritime (CGM)
Nedlloyd Lignen, B.V.
Synopsis: The proposed amendment would modify the parties' service contract rules to incorporate provisions concerning terminal handling charges, container service charges and currency adjustment factor charges.

Agreement No.: 202–010637–034
Title: North Europe-U.S. Atlantic Conference
Parties:
Atlantic Container Line, B.V.
Hapag-Lloyd AG
Sea-Land Service, Inc.
Nedlloyd Lignen, B.V.
Gulf Container Line (GCL), B.V.
P&O Containers (TFL) Limited
Compagnie Generale Maritime (CGM)
Synopsis: The proposed amendment would set forth new rules applicable to service contracts.

Agreement No.: 206–010694–007
Title: Trans-Atlantic Conference
Parties:
North Europe-U.S. Atlantic Conference
U.S. Atlantic-North Europe Conference
Synopsis: The proposed amendment sets forth new rules of general applicability to service contracts adopted by the parties with respect to contract provisions concerning terminal handling, container service, and currency adjustment charges. In addition, it also sets forth rules pertaining to "Crazy Eddie," "Bona-Fide Offer" and "Most Favored Shipper" service contract clauses that are predicated upon the regulations the Commission has proposed to prescribe in pending Docket 88–7.

Agreement No.: 202–010833–013
Title: Eurocorde–I
Parties:
North Europe—U.S. Atlantic Conference
U.S. Atlantic—North Europe Conference
Polish Ocean Lines
American Transport Lines Ltd.
Topgallant Group, Inc.
South Atlantic Cargo Shipping (Atlanticargo) N.V.
Mediterranean Shipping Co., S.A.
Orient Overseas Container Line (UK) Ltd.
Lykes Bros. Steamship Co., Inc.
Synopsis: The proposed amendment sets forth new rules of general applicability to service contracts adopted by the parties with respect to contract provisions concerning terminal handling, container service, and currency adjustment charges. In addition, it also sets forth rules pertaining to "Crazy Eddie," "Bonda-Fide Offer" and "Most Favored Shipper" service contract clauses that are predicated upon the regulations the Commission has proposed to prescribe in pending Docket 88–7.

Agreement No.: 203–011153–003
Title: Hanjin Container Lines, Ltd., Korea Shipping Corporation Facilitation Agreement
Parties:
Hanjin Container Lines, Ltd.
Korea Shipping Corporation
Synopsis: The proposed modification would permit the parties to clarify their current authority to coordinate and rationalize operations to include the transfer and/or termination of existing operations. The parties have requested a shortened review period.

Agreement No.: 207–011205
Title: Blue Star Line/Pacific Australia Direct Line Joint Service Agreement
Parties:
Pacific Australia Direct Line
Blue Star Line, Ltd.
Synopsis: The proposed agreement would permit the parties to operate a joint liner service in the trades: (1) Between ports in New Zealand and certain adjacent Pacific Islands, on the one hand, and ports on the West Coast of North America (including Alaska, Hawaii, Mexico and Canada), on the other hand; and (2) between ports in the Pacific Islands and American Samoa, on the one hand, and ports in New Zealand on the other hand, and inland and coastal points via such ports.

Agreement No.: 202–011206
Title: North Europe/North America Pacific Coast Rate Agreement
Parties:
Hapag-Lloyd AG
Pacific Europe Express
Synopsis: The proposed agreement would permit the parties to meet and agree upon rates, tariffs, practices and conditions of service in the trade served via such ports, and Atlantic and Baltic ports in Europe (including Scandinavia, the United Kingdom and the Republic of Ireland) and inland points served via such ports.

By Order of the Federal Maritime Commission.

Dated: August 4, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–17979 Filed 8–8–88; 8:45 am]
BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–002401–009
Title: Long Beach Terminal Agreement
Parties:
City of Long Beach

Sea-Land Service, Inc.
Synopsis: The agreement adjusts the annual rent in accordance with the provisions of the preferential assignment agreement as amended.

Agreement No.: 224–002401–A–003
Title: Long Beach Terminal Agreement
Parties:
City of Long Beach
Sea-Land Service, Inc.
Synopsis: The agreement adjusts the annual rent in accordance with the provisions of the basic rail and truck terminal lease agreement.

Agreement No.: 224–002401–008
Title: Long Beach Terminal Agreement
Parties:
City of Long Beach
Sea-Land Service, Inc.
Synopsis: The agreement provides that subsequent agreements contemplated by provisions in the basic preferential assignment agreement will not become operative until filed and effective pursuant to the Shipping Act of 1984.

By Order of the Federal Maritime Commission.

Dated: August 4, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–17980 Filed 8–8–88; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 20 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in section 560.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 207–011205–001
Title: Blue Star Line, Ltd./Pacific Australia Direct Line Joint Service Agreement
Parties:
Pacific Australia Direct Line
Blue Star Line, Ltd.
Synopsis: The proposed amendment would expand the geographic scope of the agreement to include the trade between American Samoa and ports on the West Coast of North America. Because of the inclusion of domestic offshore commerce within the scope of the agreement, the Commission-assigned Agreement Number will be changed from 207–011205 to 007–011205.
Filing Party:
R. Frederic Fisher, Esquire
Lillick, McHose & Charles
Two Embarcadero Center
San Francisco, California 94111

By Order of the Federal Maritime Commission.

Dated: August 4, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–17981 Filed 8–8–88; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants; FSL Transport, Inc., et al.

Notice is given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

F.S.L. Transport, Inc., 19 West 34th Street, PH–3, New York, NY 10001, Officer: Michael Unger, President

Brandywine International, Inc., 3422 Old Capitol Trail, Wilmington, Delaware 19808, Officer: John A. Pastor, President

Bonnie Williams Willis, 732 Southleaf Dr., Virginia Beach, VA 23462, Officer: Bonnie Williams Willis, Sole Proprietor

Big Apple Customs Brokers, Inc., 157–18 Rockaway Blvd., Jamaica, New York 11434, Officers: George Ferreira, President, Pamela J. Pinter, Vice President

Alps International Customs Broker and Forwarding, Incorporated, 1105 Grandview Drive, South San Francisco, CA 94080, Officer: Wendie Hom, Vice President

Trans-Atlantic Forwarding Co. Inc., 8544 NW. 66th Street, Miami, FL 33166, Officers: Mario M. Obeso, Stockholder; Gustavo Echeverria, Stockholder; Carlos Echeverria, Stockholder; Maria B. Cedeno, Stockholder

All Points Freight Forwarding Inc., 117 Highway 35, Ste 14, Keyport, N.J. 07735, Officers: Donna Borlin-Michelin, President; Martin Rosen, Vice President

Carl V. Lowell dba Lowell International, 8620 SW. 12th Street, Miami, FL 33144, Officer: Carl V. Lowell, Sole Proprietor

Unex International Corp., 3620 SW. 113 Place, Miami, FL 33165, Officers: Sonia Pineyro, President; Gaston Pineyro, Vice President

By the Federal Maritime Commission.

Dated: August 4, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–17982 Filed 8–8–88; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Revocations; Kilo Freight, Inc., et al.

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shippint Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 3032
Name: Kilo Freight, Inc.
Address: 8364 N.W., 68th Street, Miami, FL 33166
Date Revoked: July 16, 1988
Reason: Failed to maintain a valid surety bond

License Number: 2573
Name: Airnaut International Corp.
Address: 149–32 132nd Street, Jamaica NY 11430
Date Revoked: July 19, 1988
Reason: Failed to maintain a valid surety bond

License Number: 2413
Name: A & A International Freight Forwarders, Inc.
Address: 4200 N. 29th Terrace, Hollywood, FL 33020
Date Revoked: July 24, 1988

Reason: Failed to maintain a valid surety bond

Bryant L. VanBrakle,

Deputy Director, Bureau of Domestic Regulation.

[FR Doc. 88-17978 Filed 8-8-88; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank of Ireland et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are 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 each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 26, 1988.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of Ireland,* Dublin 2, Ireland; to become a bank holding company by acquiring 100 percent of the voting shares of First NH Banks, Inc., Manchester, New Hampshire, and thereby indirectly acquire The Bedford Bank, Bedford, New Hampshire; The Exeter Banking Company, Exeter, New Hampshire; First Capital Bank, N.A., Concord, New Hampshire; First Central Bank, formerly Plymouth Guaranty Savings Bank, Plymouth, New Hampshire; First Cheshire Bank, Keene, New Hampshire; First NH Bank of Lebanon, Lebanon, New Hampshire; First NH Bank of Maine, Portland, Maine; First NH-White Mountain Bank, North Conway, New Hampshire; Granite State National Bank, Somersworth, New Hampshire; The Merchants National Bank of Manchester, Manchester, New Hampshire; and The Wolfeboro National Bank, Wolfeboro, New Hampshire.

In connection with this application, Applicant also proposes to acquire First NH Mortgage Corp, Hooksett, New Hampshire, and thereby engage in mortgage banking activities including the origination, purchase, sale and servicing of residential mortgages pursuant to § 225.25(b)(1) (these activities will be conducted only in New England); First NH Resources, Inc., Boston, Massachusetts, and thereby engage in leasing transactions involving equipment valued at more than $1,000,000 pursuant to §225.25(b)(5); New England Acceptance Corporation, Keene, New Hampshire, and thereby engage in insurance premium financing activities pursuant to § 225.25(b)(1); Vender Funding Co., Inc., New Hyde Park, New York, and thereby engage in leasing equipment valued between $5,000 and $250,000 pursuant to § 225.25(b)(5); and EG&G Financial Services, Inc., Wellesley, Massachusetts, and thereby engage in equipment leasing pursuant to § 225.25(b)(5) of the Board's Regulation Y.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Boatmen's Bancshares, Inc.,* St. Louis, Missouri; to merge with Centerre Bancorporation, St. Louis, Missouri, and thereby indirectly acquire Centerre Bank, N.A., St. Louis, Missouri; Centerre Bank of Branson, Branson, Missouri; Centerre Bank of Cape Girardeau, Cape Girardeau, Missouri; Centerre Bank of Columbia, Columbia, Missouri; Centerre Bank of Crane, Crane, Missouri; Centerre Bank of Kansas City, N.A., Kansas City, Missouri; Centerre Bank of Kennett, Kennett, Missouri; Centerre Bank of Neosho, N.A., Neosho, Missouri; Centerre Bank of Rolla, Rolla, Missouri; Centerre Bank of Springfield, Springfield, Missouri; Centerre Bank of West Plains, N.A., West Plains, Missouri; and Centerre Bank of Vandalia, Vandalia, Missouri.

In connection with this application, Applicant also proposed to acquire Centerre Trust Company of St. Louis, St. Louis, Missouri, and thereby engage in trust company functions pursuant to § 225.25(b)(3); Monetary Transfer System, St. Louis, Missouri, and thereby engage providing data processing services pursuant to § 225.25(b)(7); Centerre Life Insurance Company, St. Louis, Missouri, and thereby act as a reinsurer of credit life and credit accident and health insurance sold in connection with extensions of credit by the affiliate banks pursuant to § 225.25(b)(8); Centerre Insurance Agency, Inc., St. Louis, Missouri, and thereby act as a reinsurer of credit life and credit accident and health insurance sold in connection with extensions of credit by the affiliate banks pursuant to § 225.25(b)(8); Benefit Plan Services, Inc., St. Louis, Missouri, and thereby engage in the design and administration of small to moderately sized employee benefit and pension plans, such as defined benefit plans, defined contribution plans, 401-K plans and profit sharing plans. This activity was approved by Board Order in accordance with § 225.23(a)(3); and Centerre Bank of Delaware, New Castle, Delaware, and thereby engage in credit card lending only pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 3, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-17898 Filed 8-8-88; 8:45 am]

BILLING CODE 6210-01-M

Bankverst, Inc., et al; Acquisitions of Compaines Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's

approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets or a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise 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, summariziang 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 each of these application must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than August 31, 1988.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Bankvest, Inc.*, Wilkes-Barre, Pennsylvania; to acquire Datavest, Inc., formerly First Data Corp, Wilkes-Barre, Pennsylvania, and thereby engage in making and servicing loans pursuant to § 225.25(b)(1); and to expand the already approved activity of data processing and related services of company to include deposit servicing for Applicant's subsidiary bank pursuant to § 225.25(b)(7) of the Boards's Regulation Y.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota, and two of its subsidiaries; to acquire Norwest Financial Services, Inc., Des Moines, Iowa; and Norwest Financial, Inc., Des Moines, Iows, and thereby engage in making, acquiring, and servicing loans of the type made by a consumer finance company pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 3, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88–17897 Filed 8–8–88; 8:45 am]

BILLING CODE 6210-01-M

Beverly Bancorporation et al.; Formations of; Acquisition 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.C.S. 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 summariziang the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these application must be received not later than August 26, 1988.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Beverly Bancorporation, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares of Firt Wilmington Corp., Wilmington, Illinois, and thereby indirectly acquire The First National Bank of Wilmington, Wilmington, Illionis.

2. *Mechanicsville Trust & Savings Bank*, Trustee of The Mechanicsville Trust and Savings Bank Employee Stock Ownership Plan & Trust, Mechanicsville, Iowa; to become a bank holding company by acquiring 75 percent of the voting shares of Mechanicsville Bancshares, Inc., Mechanicsville, Iowa, and thereby indirectly acquire The Mechanicsville Trust & Savings Bank, Mechanicsville, Iowa.

Board of Governors of the Federal Reserve System, August 3, 1988

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88–17899 Filed 8–8–88; 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 August 24, 1988.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *George R. Brokemond*, to acquire 25 percent of the voting shares of Highland Community Company, Chicago, Illinois, and thereby indirectly acquire Highland Community Bank, Chicago, Illinois.

Board of Governors of the Federal Reserve System, August 3, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88–17900 Filed 8–8–88; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on 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 August 22, 1988.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Robert E. Gallagher;* to acquire 31.99 percent of the voting shares of Standard Bancshares, Inc., Evergreen Park, Illinois, and thereby indirectly acquire Standard Bank & Trust Company, Evergreen Park, Illinois, and Standard Bank & Trust Company, Hickory Hills, Illinois.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Charles L. Hermansen,* Huntington Beach, California; to acquire an additional 14 percent of the voting shares of HNB Financial Group, Huntington Beach, California.

Board of Governors of the Federal Reserve System, August 3, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-17901 Filed 8-8-88; 8:45 am]

BILLING CODE 6210-01-M

Horizon Banks, 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 31, 1988.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Horizon Banks, Inc.,* Concord, New Hampshire; to become a bank holding company by acquiring 100 percent of the voting shares of Horizon Bank and Trust, Concord, New Hampshire, a *de nove* bank.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *BankVest, Inc.,* Willkes-Barre, Pennsylvania; to acquire 100 percent of the voting shares of Princeton Bank of Pennsylvania, Philadelphia, Pennslyvania.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *G. Fields Bancshares, Inc.,* Cassville, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Security Bank of Southwest Missouri, Cassville, Missouri.

D. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Bancorp, Inc.,* Huron, South Dakota; to acquire 100 percent of the voting shares of Custer County Bank Custer South Dakota, and Southern Hills Bank, Edgemont, South Dakota.

2. *H & W Holding Company,* Freeman, South Dakota; to become a bank holding company by acquiring at least 80 percent of the voting shares of Merchants State Bank, Freeman, South Dakota.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoening, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Stockton Bancshares, Inc.,* Stockton, Kansas; to acquire 90.2 percent of the voting shares of The Trego-Wakeeney State Bank, Wakeeney, Kansas. Comments on this application must be received by August 24, 1988.

Board of Governors of the Federal Reserve System, August 3, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-17902 Filed 8-8-88; 8:45 am]

BILLING CODE 6210-01-M

The Royal Bank of Scotland Group plc; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 31, 1988.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *The Royal Bank of Scotland Group plc*, Edinburgh, Scotland; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Financial Group, Inc., Providence, Rhode Island, and thereby indirectly acquire Citizens Savings Bank, Providence, Rhode Island; Citizens Trust Company, Providence, Rhode Island; and Fairhaven Savings Bank, Fairhaven, Massachusetts.

In connection with this application, Applicant also proposes to acquire Gulf States Mortgage Co., Inc., Atlanta, Georgia, and thereby engage in making, acquiring, and servicing residential mortgage loans secured by first and second mortgages pursuant to § 225.25(b)(1); and the sales, as agent, of credit life, credit accident and health and credit disability insurance in connection with extensions of credit pursuant to § 225.25(b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 3, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-17903 Filed 8-8-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87N-0056]

Model Food Protection Unicode; Notice of Availability; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice of availability; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the period for submitting comments on its draft Model Food Protection Unicode. The Model Food Protection Unicode will update and combine the food protection and sanitation provisions currently contained in separate model codes covering food service, food vending, and retail food stores. FDA received five separate requests for extension of the comment period and is granting an additional 60 days.

DATE: Comments by October 7, 1988.

ADDRESSES: A copy of the draft Model Food Protection Unicode is available for public review at, and written comments on the draft may be submitted to, the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Single copies of the draft Model Food Protection Unicode may be obtained by contacting Arthur L. Banks (address below).

FOR FURTHER INFORMATION CONTACT: Arthur L. Banks, Center for Food Safety and Applied Nutrition (HFF-342), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0140.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 9, 1988 (53 FR 16472), FDA published a notice of availability for the draft Model Food Protection Unicode. The Model Food Protection Unicode will update and encompass the food protection and sanitation provisions now contained in three separate model codes. Interested persons were given until August 8, 1988, to comment.

Four requests for an extension of the comment period ranging from 30 days to 6 months were received from 3 trade associations and 1 state agency. Specifically, the requests (with the additional amount of time requested in parentheses) were from the National Restaurant Association (30 days); the representative by the National Association of Convenience Stores (60 days); the State of Connecticut's Department of Consumer Protection (90 days); and the National Automatic Merchandising Association (180 days). A fifth request for an extension of the comment period was received from the Conference of Food Protection but the amount of additional time was not specified.

FDA has evaluated the requests and has concluded that an extension of 60 days is appropriate to allow adequate time for interested persons to review the draft document. Therefore, the comment period is being extended until October 7, 1988.

Interested persons may, on or before October 7, 1988, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 2, 1988.

John M. Taylor,

Associate Commissioner.

[FR Doc. 88-17935 Filed 8-8-88; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee Meetings; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that announced forthcoming public advisory committee meetings for the Clinical Chemistry and Clinical Toxicology Devices Panel and the Anesthetic and Life Support Drugs Advisory Committee (53 FR 27239; July 19, 1988). The notice inadvertently stated that the Anesthetic and Life Support Drugs Advisory Committee would discuss new animal drug application Nos. 19-677 and 19-678, for edrophonium and atropine combination (Enlon Plus®, Anaquest). This document corrects that error.

FOR FURTHER INFORMATION CONTACT: T. Rada Proehl, Regulations Editorial Staff (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 88-16132, appearing at page 27239 in the **Federal Register** of Tuesday, July 19, 1988, the following correction should be made: On page 27240, second column, sixth line under the *"Open committee discussion"* paragraph, "new animal drug" is corrected to read "new drug".

Dated: August 2, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-17936 Filed 8-8-88; 8:45 am]

BILLING CODE 4160-01-M

Indian Health Service

Availability of Funds for Loan Repayment Program for Health Professions Education Loans

AGENCY: Indian Health Service, HHS.

ACTION: Notice.

SUMMARY: The Indian Health Service (IHS) announces that $2,000,000 in Fiscal Year (FY) 1988 grant funds is available for the repayment of health professions educational loans in return for full-time clinical service in the Indian Health Service. Funding for this program is provided by Pub. L. 100-202, Final Continuing Appropriations for Fiscal Year 1988, enacted December 22, 1987. The IHS, through this notice, invites potential applicants to request an application for participation in the Loan Repayment Program. The IHS estimates that approximately 80 loan repayment

awards may be awarded with this funding.

DATES: Applications for the initial cycle of this program will be accepted through September 8, 1988. 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 and received in time for submission to the independent 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.)

Applications received after the announced closing date will not be considered for funding.

ADDRESS: Application materials may be obtained by calling or writing, and completed applications should be returned to: Health Manpower Support Branch, IHS, Room 9A–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: 301–443–4243.

FOR FURTHER INFORMATION CONTACT: Hazel Black. Telephone 301–443–4243. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Funding for the IHS Loan Repayment Program was included in Pub. L. 100–202, Final Continuing Appropriations for FY 1988, enacted December 22, 1987, which states in pertinent part:

* * * of the funds provided, $2,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service in the Indian Health Service. Each individual participating in this program must sign and submit to the Secretary a written contract to accept repayment of educational loans and to serve for the applicable period of service in the Indian Health Service.

This program is intended to address potential problems the IHS is facing with regard to future staffing shortages. Only individuals who are or will be in full-time clinical practice as Federal employees in the IHS (whether at IHS facilities or assigned to tribal programs) may participate in this loan repayment program. Employees of tribal organizations contracting with the IHS under the Indian Self Determination Act, Pub. L. 93–638, and employees of urban Indian organizations contracting with the IHS uner Title V of the Indian Health Care Improvement Act, Pub. L. 94–437, may not participate.

Applicants may sign agreements with the Secretary for two or three years. In return for the service required by the contract, the IHS will repay health professions educational loans for tuition and reasonable educational and living expenses up to $25,000 per year for the duration of the contract.

Participants will be required to fulfill their contract service agreements through full-time clinical practice at a designated Retention/Recruitment Priority Site. The IHS will designate these sites annually. In general, they are sites characterized by physical, cultural and professional isolation, with histories of frequent staff turnover. Sites may be IHS facilities or facilities operated by tribal contractors to which the IHS employee may be assigned.

There are three separate, but not necessarily exclusive, groups of Retention/Recruitment Priority Sites. These are for the priority medical specialties, other medical specialties, and nursing. Program participants may match to any available and appropriate vacancy to complete their obligation. A listing of the Retention/Recruitment Priority Sites for each group will be found in the Program application packet.

Any individual who enters this Program and satisfactorily completes his/her obligated period of service may, if funds are available, apply to extend the contract on a year-by-year or a multi-year basis, as determined by the IHS, at the $25,000 per year rate. The maximum amount to be funded in this manner may not exceed the total of the individual's outstanding qualified loans.

For FY 1988, the Director, IHS, has determined that, based on IHS staffing needs, only physicians and nurses will be eligible to participate in the loan repayment program and has established the following priorities for funding participants in the Program:

1. Physicians who are certified in or eligible to sit for the certifying examination of the specialty boards: general surgery, obstetrics/gynecology, orthopaedic surgery, ophthalmology, otorhinolaryngology/otolaryngology, anesthesiology, radiology and psychiatry.

2. Physicians in other specialties as the needs of the Service require.

3. Nurses if funds are available after physician participants are funded.

4. Physicians or nurses in training.

Applicants must:

(A) Meet one of the following requirements.

(1) Be enrolled as a full-time student in the final year of a course of study or program leading to a degree in allopathic or osteopathic medicine or nursing in an accredited school in a State. (The term "State" includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, The Federated States of Micronesia, the Republic of the Marshall Islands, and The Republic of Palau); or (2) be enrolled in an approved graduate training program in allopathic or osteopathic medicine or nursing; or (3) have a degree in allopathic or osteopathic medicine and have completed an approved post-graduate training program and have a current and valid license to practice medicine in a State; or (4) have a degree in nursing and have a current and valid license to practice nursing in a State; and

(B) Be eligible for appointment as a Commissioned Officer in the Regular or Reserve Corps of the Public Health Service or be eligible for selection for civilian service in the IHS; and

(C) Submit an application to participate in the Loan Repayment Program; and

(D) Sign and submit to the Secretary, at the time of the submission of such application, a written contract agreeing to accept repayment of educational loans and to serve for the applicable period of obligated service a Retention/Recruitment Priority Site as determined by the Director.

Selections among qualified applicants will be based upon consideration of the following factors:

—Length of current employment in the IHS (Employees with the greater length of service will receive higher consideration.);
—Agreement to serve for three years, as opposed to two years;
—Post-graduate training in a specialty (medical or nusing) most needed by the IHS;
—Board eligibility or certification by start of service (medical);
—A former IHS employee with experience in a Retention/Recruitment Priority Site (medical or nursing);
—A former National Health Service Corps (NHSC) Scholarship Program participant, with experience in an IHS or NHSC site, who has or will complete the service obligation on or before September 30, 1988 (medical or nursing;
—Experience in a post-residency practice in a primary care Health Manpower Storage Area (HMSA) (medical or nursing);
—References from persons having direct knowledge of the applicant's professional capability.

Any individual who owes an obligation for health professional service to the Federal Government or to a State or other entity under an agreement with such State or other entity is ineligible for the Loan Repayment Program unless such an obligation will be completely satisfied prior to the beginning of service under this program in the year that an application is made for this program.

This program is not subject to review under Executive Order 12372.

The *Catalog of Federal Domestic Assistance* number is 13.164.

Dated: August 3, 1988.

Everett R. Rhoades,

Assistant Surgeon General, Director.

[FR Doc. 88–17937 Filed 8–8–88; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–963–4213–15; AA–8099–1]

Alaska Native Claims Selection; Calista Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance (DIC) to Calista Corporation, notice of which was published in the **Federal Register** 52 FR 5597 on February 25, 1987, is modified by correcting the land description to exclude certain mineral surveys and mining claims.

A notice of the modified DIC will be published once a week, for four (4) consecutive weeks, in *The Tundra Drums.* Copies of the modified DIC may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government, or regional corporation, shall have until September 8, 1988, to file an appeal on the issue in the modified DIC. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Except as modified, the decision, notice of which was given February 25, 1987, is final.

Ann Johnson,

Chief, Branch of Calista Adjudication.

[FR Doc. 88–17931 Filed 8–8–88; 8:45 am]

BILLING CODE 4310–JA–M

[ID–943–08–4520–12]

Filing Plats of Survey; Idaho

AGENCY: Bureau of Land Management, Interior.

The plats of survey of the following lands were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, on the dates hereinafter stated:

T. 28 N., R. 4 E., accepted June 6, 1988, officially filed on July 12, 1988.
T. 48 N., R. 4 E., section 11, accepted July 15, 1988, officially filed August 31, 1988.
T. 48 N., R. 5 E., tracts 37–45, accepted July 15, 1988, officially filed August 31, 1988.
T. 48 N., R. 5 E., section 24, accepted July 15, 1988, officially filed August 31, 1988.
T. 48 N., R. 5 E., tract 46, accepted July 15, 1988, officially filed August 31, 1988.
T. 48 N., R. 6 E., section 19, accepted July 15, 1988, officially filed August 31, 1988.

The above plats represent dependent resurveys and supplemental plats.

Inquiries about these lands should be addressed to Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Donald A. Simpson,

Chief, Land Services Section.

Dated: August 1, 1988.

[FR Doc. 88–17874 Filed 8–8–88; 8:45 am]

BILLING CODE 4310–GG–M

[MT–930–08–4220–10; SDM 76798]

Proposed Withdrawal; South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

This notice will correct the Notice of Proposed Withdrawal published in the **Federal Register** on May 19, 1988 (52 FR 17983–17984). The notice is corrected by changing the following legal description:

In the third column under T. 3 S., R. 3 E., the land description "sec. 31, lots 1 and 2, E½SW¼, SE¼", should read "sec. 31, lots 3 and 4, E½SW¼, SE¼."

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

August 1, 1988.

[FR Doc. 88–17875 Filed 8–8–88; 8:45 am]

BILLING CODE 4310–DN–M

DEPARTMENT OF INTERIOR

[CO–050–4212–11; C–47737]

Realty Action; Rio Grande County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and Public Purposes Classification, C–47737, Rio Grande County, Colorado.

SUMMARY: The following described public lands have been examined and found suitable for classification and disposal under the Recreation and Public Purposes (R & PP) Act of June 14, 1926 (43 USC 869) and the regulations thereunder (43 CFR Part 2740):

New Mexico Principal Meridian, Colorado

T. 39 N., R. 11 E.,
Sec. 11, E½NE¼;
Sec. 12, W½SW¼NW¼.
Containing 100 acres.

Rio Grande Sportsman Club has applied for these lands to be used for a rifle range. Only that portion actually developed, about 15 acres, would be included in a conveyance. The proposed classification would be consistent with BLM land use plans for the area.

Publication of this notice will segregate these lands from all appropriation, including mineral entry, except applications under the R & PP Act. Segregation will terminate eighteen (18) months from publication of this notice, or upon publication of a notice of termination, whichever occurs first, unless lease or patent issues.

Any lease or patent issued for these lands under the R & PP Act will reserve all minerals to the United States, and will contain a clause which would result in the lands reverting back to the United States if the use of the land is altered or if the land is transferred. The conveyance will also be subject to Oil and Gas Lease C–31506.

DATES: Interested parties may submit comments on this action for a period of 45 days after publication of this notice. Comments should be directed to the District Manager, P.O. Box 311, Canon City, CO 81212. Objections will be reviewed and this realty action may be sustained, vacated, or modified. In the absence of any objection resulting in vacation or modification, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: The Canon City District Office at (719) 275–0631.

Stuart L. Freer,

Associate District Manager.

[FR Doc. 88–17988 Filed 8–8–88; 8:45 am]

BILLING CODE 4310–JB–M

[CO–050–4212–11; C–47719]

Realty Action; Jefferson County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and Public Purposes Classification, C–47719, Jefferson County, Colorado; Application for Patent.

SUMMARY: The following described public lands are being examined for classification and disposal under the Recreation and Public Purposes (R & PP) Act of June 14, 1926 (43 USC 869) and the regulations thereunder (43 CFR Part 2740):

Sixth Principal Meridian, Colorado

T. 3 S., R. 71 W.,
Sec. 33, S½S½;
Sec. 34, S½SE¼.
Containing 240 acres.

Clear Creek Land Conservancy has applied for these lands to be used for education and recreational purposes. The proposed classification would be consistent with BLM land use plans for the area.

Publication of this notice will segregate these lands from all appropriation, including mineral entry, except applications under the R & PP Act. Segregation will terminate eighteen (18) months from publication of this notice, or upon publication of a notice of termination, whichever occurs first, unless lease or patent issues.

Any patent issued for these lands under the R & PP Act will reserve all minerals to the United States, and will contain a clause which would result in the lands reverting back to the United States if the use of the land is altered or if the land is transferred.

DATES: Interested parties may submit comments on this action for a period of 45 days after publication of this notice. Comments should be directed to the District Manager, P.O. Box 311, Canon City, CO 81212. Objections will be reviewed and this realty action may be sustained, vacated, or modified. In the absence of any objection resulting in vacation or modification, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Priscilla McLaine in the Northeast Resource Area Office at, 303–236–4399.

Stuart L. Freer,

Associate District Manager.

[FR Doc. 88–17989 Filed 8–8–88; 8:45 am]

BILLING CODE 4310–JB–M

Minerals Management Service

Development Operations Coordination; McMoRan Oil & Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that McMoRan Oil & Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 5324, 5331, and 5332, Blocks 433, 457, and 458, 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 Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on July 29, 1988. Comments must be received on or before August 24, 1988 or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: 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: August 1, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88–17876 Filed 8–8–88; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations; Alabama et al.

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 29, 1988. Pursuant to §60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by August 24, 1988.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Baldwin County

First Baptist Church (Rural Churches of Baldwin County TR), N side D'Olive St., Bay Minette, 88001349

Latham United Methodist Church (Rural Churches of Baldwin County TR), E side Hwy. 59, Latham, 88001350

Lebanon Chapel AME Church (Rural Churches of Baldwin County TR), Bounded by Young St. on the West and Middle St. on the North, Fairhope, 88001351

Montgomery Hill Baptist Church (Rural Churches of Baldwin County TR), E side Hwy. 59 on CR 80,Tensaw, 88001352
St. Mark's Lutheran Church (Rural Churches of Baldwin County TR), W side CR 83, Elberta, 88001353
St. Patrick's Catholic Church (Rural Churches of Baldwin County TR), E side Hwy. 90, Loxley, 88001354
St. Paul's Episcopal Church (Rural Churches of Baldwin County TR), N side Oak Ave., Magnolia Springs, 88001355
Stockton Methodist Church (Rural Churches of Baldwin County TR), E side Hwy. 59, Stockton, 88001356
Swift Presbyterian Church (Rural Churches of Baldwin County TR), Swift Church Rd., Miflin, 88001357
Twin Beach AME Church (Rural Churches of Baldwin County TR), S side of CR 44, Fairhope, 88001358

Madison County

New Market Presbyterian Church, 1723 New Market Rd., New Market, 88001348

ALASKA

Juneau Borough-Census Area

Fries Miners' Cabins, 500 blk., Kennedy St., Juneau, 88001347

CONNECTICUT

Fairfield County

Methodist Episcopal Church, 61 E. Putnam Ave., Greenwich, 88001343
Wilcox, Josiah, House, 354 Riversville Rd., Greenwich, 88001344

Hartford County

East Granby Historic District, Church and East Sts., Nicholson and Rainbow Rds., N Main, School and S. Main Sts., East Granby, 88001318
Marion Historic District, Along Marion Ave., and Meriden-Waterbury Tnpk., Southington, 88001423

Middlesex County

Broad Street Historic District, Roughly bounded by High, Washington, Broad and Church Sts., Middletown, 88001319

Windham County

Dayville Historic District, Main and Pleasant Sts., Killingly, 88001422

DISTRICT OF COLUMBIA

District of Columbia

Lothrop Mansion, 2001 Connecticut Ave., Washington, 88001346

IOWA

Black Hawk County

Black Hawk County Soldiers Memorial Hall (Waterloo MPS), 194 W. Fifth St., Waterloo, 88001322
Chicago, Great Western Railroad—Waterloo Freight Depot (Waterloo MPS), Sixth St., Waterloo, 88001325
Fire Station No. 2 (Waterloo MPS), 716 Commercial St., Waterloo, 88001321
Hotel Russell—Lamson (Waterloo MPS), 201—215 W. Fifth St., Waterloo, 88001324
Waterloo Public Library—East Side Branch (Waterloo MPS), 626 Mulberry St., Waterloo, 88001323

Muscatine County

Chicago, Rock Island and Pacific Railroad—Wilton Depot, N. Railroad St., Wilton, 88001326

Polk County

Andrews, Josiah, House (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 1128 Twenty-seventh St., Des Moines, 88001338
Bell, Hill McClelland, House (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 1091 Twenty-sixth St., Des Moines, 88001334
Denny, Professor Charles O., House (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 1084 Twenty-fifth St., Des Moines, 88001329
Drake University Campus Historic District (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), Roughly two blks. along University Ave. near Twenty-fifth St., Des Moines, 88001341
Kirkham, Francis M., House (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 1026 Twenty-fourth St., Des Moines, 88001328
Knotts, Nellie and Thomas, House (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 1021 Twenty-sixth St., Des Moines, 88001333
Lord, Richard T. C., and William V. Wilcox House (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 2416 Kingman Blvd., Des Moines, 88001336
Norman Apartment Building (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 3103 University Ave., Des Moines, 88001327
Odenweller, F. F., and James P. and Nettie Morey House (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 1115 Twenty-seventh St., Des Moines, 88001337
Reynolds, Anson O., House (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 1022 Twenty-sixth St., Des Moines, 88001331
Scott, Mary A. and Caleb D., House (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 1014 Twenty-sixth St., Des Moines, 88001332
Sherman, Lampson P., House (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 1052 Twenty-sixth St., Des Moines, 88001335
Simmons, John P., House (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 1113 Twenty-seventh St., Des Moines, 88001339
Stuart, Dr. Richard and Paulina, House (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 1060 Twenty-fifth St., Des Moines, 88001330
Vail, Mrs. Marian D. and Professor Charles Noyes Kinney House (Drake University and Related Properties in Des Moines, Iowa, 1881—1918 MPS), 1318 Twenty-seventh St., Des Moines, 88001340

KENTUCKY

Oldham County

Central La Grange Historic District, Primarily along Washington, Main, and Jefferson Sts., Kentucky Ave., and First through Sixth Aves., La Grange, 88001316

Wayne County

Hotel Breeding, 201—211 N. Main St., Monticello, 88001315

NEW YORK

Livingston County

St. Rose Roman Catholic Church Complex, Lake Ave., Lima, 88001345

OHIO

Highland County

Saint Mary's Episcopal Church and Parish House, 232 N. High St., Hillsboro, 88001421

OKLAHOMA

Alfalfa County

Cherokee Armory (WPA Public Bldgs., Recreational Facilities and Water Quality Improvements in Northwestern Oklahoma, 1935—1943 TR), Second and Kansas Sts., Cherokee, 88001371

Atoka County

Atoka Armory (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935—1943 TR), Ohio and C Sts., Atoka, 88001372
Atoka Community Building (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935—1943 TR), First and Delaware Sts., Atoka, 88001373

Bryan County

Caddo Community Building (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935—1943 TR), E. Buffalo St., Caddo, 88001376
Lee, E., School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935—1943 TR), Ninth and Louisiana Sts., Durant, 88001374
Roberta School Campus (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935—1943 TR), Off OK E70, Durant Vicinity, 88001377
Williams, Robert Lee, Public Library (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935—1943 TR), Fourth and Beech Sts., Durant, 88001375

Canadian County

Goff, William I. and Magdalen M., House, 506 S. Evans, El Reno, 88001317

Choctaw County

Hugo Armory (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935—1943 TR), Jefferson and Third Sts., Hugo, 88001378

Hugo Public Library (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935—1943 TR), E. Jefferson St., Hugo, 88001379

Speer School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935—1943 TR), Off US 271 E on a county road, Hugo vicinity, 88001380

Spencerville School Campus (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935—1943 TR), S of Spencerville, Spencerville vicinity, 88001381

Coal County

Coalgate School Gymnasium—Auditorium (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935—1943 TR), Fox and Frey Sts., Coalgate, 88001382

Garfield County

Enid Armory (WPA Public Bldgs., Recreational Facilities and Water Quality Improvements in Northwestern Oklahoma, 1935–1943 TR), Sixth and Elm Sts., Enid, 88001370

Grant County

Dayton School (WPA Public Bldgs., Recreational Facilities and Water Quality Improvements in Northwestern Oklahoma, 1935–1943 TR), SE of Lamont, Lamont vicinity, 88001369

Medford Bathhouse and Swimming Pool (WPA Public Bldgs., Recreational Facilities and Water Quality Improvements in Northwestern Oklahoma, 1935–1943 TR), Guthrie and Fifth Sts., Medford, 88001368

Harper County

Buffalo City Park Pavilion (WPA Public Bldgs., Recreational Facilities and Water Quality Improvements in Northwestern Oklahoma, 1935–1943 TR), US 64, Buffalo, 88001367

Haskell County

Kinta High School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), OK 2, Kinta, 88001383

Stigler School Gymnasium—Auditorium (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Fourth and E Sts., Stigler, 88001384

Hughes County

Dustin Agricultural Building (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Rutherford and Fourth Sts., Dustin, 88001385

Holdenville Armory (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), US 270 and N. Butts St., Holdenville, 88001386

Moss School Gymnasium (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Off the intersection of US 270 and 75, Holdenville vicinity, 88001388

Spaulding School Gymnasium—Auditorium (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Section Line Hwy. and Second St., Spaulding, 88001389

Stroup Park Swimming Pool and Bath House (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), N. Broadway and E. Twelfth Sts., Holdenville, 88001387

Wetumka Armory (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), St. Louis and Wetumka Sts.,Wetumka, 88001390

Wetumka Cemetery Pavilion and Fence (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), E of Wetumka, Wetumka vicinity, 88001391

Kay County

Blackwell Armory (WPA Public Bldgs., Recreational Facilities and Water Quality Improvements in Northwestern Oklahoma, 1935–1943 TR), Sixth and Doolin Sts., Blackwell, 88001366

Blaine Stadium and Fieldhouse (WPA Public Bldgs., Recreational Facilities and Water Quality Improvements in Northwestern Oklahoma, 1935–1943 TR), Fifth and Brookfield Sts., Ponca City, 88001364

Newkirk Water Purification Plant (WPA Public Bldgs., Recreational Facilities and Water Quality Improvements in Northwestern Oklahoma, 1935–1943 TR), Tenth and Elm Sts., Newkirk, 88001365

Tonkawa Armory (WPA Public Bldgs., Recreational Facilities and Water Quality Improvements in Northwestern Oklahoma, 1935–1943 TR), Third and North Sts., Tonkawa, 88001363

Latimer County

Ash Creek School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Off Ash Creek Rd., Wilburton vicinity, 88001392

Bowers School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Off US 270 on county road, Wilburton vicinity, 88001393

Cambria School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), NE of Hartshorne, Hartshorne vicinity, 88001394

Colony Park Pavilion (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Veterans Colony, Wilburton vicinity, 88001395

Degnan School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), NW of Wilburton off OK 2, Wilburton vicinity, 88001396

Panola High School and Gymnasium (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Off US 270, on the southside of the railroad tracks, Panola, 88001397

Le Flore County

Arkoma School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Arkoma and Blocker Sts., Arkoma, 88001398

Dog Creek School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), SW of Shady Point, Shady Point vicinity, 88001399

Poteau Community Building (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Hill and Hopkins Sts., Poteau, 88001403

Poteau School Gymnasium—Auditorium (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Walter and Parker Sts., Poteau, 88001404

Shady Point School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), NE edge of the community, Shady Point, 88001405

Summerfield School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Off US 271, Summerfield, 88001406

Tucker School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Off US 59, Spiro vicinity, 88001407

Twymon Park (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), West St., Poteau vicinity, 88001402

Westside Elementary School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Second and D Sts., Heavener, 88001400

Williams School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), NW of Cameron, Cameron vicinity, 88001408

McCurtain County

Idabel Armory (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Washington and SE Avenue F Sts., Idabel, 88001409

Valliant School Gymnasium—Auditorium (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Wilbur and Lucas Sts., Valliant, 88001410

Noble County

Perry Armory (WPA Public Bldgs., Recreational Facilities and Water Quality Improvements in Northwestern Oklahoma, 1935–1943 TR), Delaware and Fourteenth Sts., Perry, 88001362

Rein School (WPA Public Bldgs., Recreational Facilities and Water Quality Improvements in Northwestern Oklahoma,

1935–1943 TR), Off US 177, Ponca City vicinity, 88001361

Pittsburg County

Cole Chapel School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), N of Hartshorne, Hartshorne vicinity, 88001411

Lee, Jeff, Park Bath House and Pool (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Third and Fillmore Sts., McAlester, 88001413

McAlester Armory (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Third and Polk Sts., McAlester, 88001412

New State School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), S of Hartshorne near North Fork Elm Creek, Hartshorne vicinity, 88001414

Pittsburg School and Gymnasium (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Off OK 63, Pittsburg, 88001415

Tipton Ridge School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), W. Pine St., Clayton, 88001418

Pushmataha County

Clayton High School—Auditorium (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), W. Pine St., Clayton, 88001418

Fewell School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), Off OK 144, Nashoba vicinity, 88001419

Snow School (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), US 271, Snow, 88001420

Woods County

Alva Armory (WPA Public Bldgs., Recreational Facilities and Water Quality Improvements in Northwestern Oklahoma, 1935–1943 TR), Choctaw and Third Sts., Alva, 88001360

Woodward County

Woodward Crystal Beach Park (WPA Public Bldgs., Recreational Facilities and Water Quality Improvements in Northwestern Oklahoma, 1935–1943 TR), Jim Ben and Temple Houston Sts., Woodward, 88001359

OREGON

Clatsop County

Uniontown—Alameda Historic District, Marine Dr. and Alameda Ave., between Hume and Hull Aves., Astoria 88001311

Douglas County

Smith, Bernard Pitzer, House, 15892 Old Hwy. 99, S, Myrtle vicinity, 88001313

Multnomah County

Ladd's Addition Historic District, Bounded by S.E. Division, Hawthorne, Twelfth and Twentieth Sts., Portland 88001310

Young, John Eben, House, 916 S.W. King St., Portland, 88001312

SOUTH DAKOTA

Hand County

Miller Ree Creek Bridge, W edge of Miller, Miller, 88001314

TENNESSEE

Henry County

Bruce, H.L., House (Paris MRA), 202 S. Poplar St., Paris, 88001431

Jernigan, E.K., House (Paris MRA), 207 Dunlap St., Paris, 88001429

Jernigan, Thomas P., House (Paris MRA), 918 Dunlap St., Paris, 88001430

Lee, Robert E., School (Paris MRA), 402 Lee St., Paris, 88001426

North Poplar Historic District (Paris MRA), Along sections of N. Poplar St. and E. Church St., Paris, 88001428

Paris Commercial Historic District (Paris MRA), Along sections of E. and W. Wood, W. Washington, N. and S. Poplar, N. and S. Market, Fentress and W. Blythe Sts., Paris, 88001424

Sweeney, Judge John C., House (Paris MRA), 1212 Chickasaw Rd., Paris, 88001427

West Paris Historic District (Paris MRA), Along sections of W. Washington, N. College and Hudson Sts., Paris, 88001432

White, Charles M., House (Paris MRA), 403 Whitehall Circle, Paris, 88001425

VIRGINIA

Pulaski County

Hoge, John, House, NW side of VA 617, Belspring vicinity, 88001320

The following properties were erroneously listed under West Virginia in our Annual List dated Tuesday, May 24, 1988, under Properties Listed in the National Register in Fiscal Year 1986, and should read as follows:

WASHINGTON

Snohomish County

Weyerheuser Office Building, 1710 W. Marine View Dr., Everett (5/14/86)

Whitman County

Palouse Main Street Historic District, Main St. between K and Mary Sts., Palouse (5/8/86)

[FR Doc. 88–17912 Filed 8–8–88; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Attorney General

[Atty. Gen. Order No. 1293–88]

Certification of the Attorney General; Talbot County, GA;

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fourteenth and Fifteenth Amendments of the Constitution of the United States in Talbot County, Georgia. This county is included within the scope of the determinations of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Edwin Meese III,

Attorney General of the United States.

August 4, 1988.

[FR Doc. 88–17914 Filed 8–8–88; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Two Partial Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act; Cannons Engineering Corp. et al.

In accordance with Departmental Policy, 23 CFR 50.7, 38 FR 19020, notice is hereby given that on August 3, 1988, two proposed partial consent decrees in *United States* v. *Cannons Engineering Corporation, et al.* Civil Action No. 88–1786–WF, were lodged with the United States District Court for the District of Massachusetts. The decrees resolve claims of the United States against the settling parties under the Comprehensive Environmental Response, Compensation and Liability Act as amended, 42 U.S.C. 9601 *et seq.* ("CERCLA"). The claims are related to wastes that were disposed of at four hazardous waste sites, which sites are located in Bridgewater, Massachusetts; Plymouth, Massachusetts; Londonderry, New Hampshire, and Nashua, New Hampshire. All four sites have been placed on the National Priorities List of hazardous waste sites promulgated by the Environmental Protection Agency ("EPA") pursuant to CERCLA. The claims are against persons whose waste was disposed of at the sites, persons who transported waste to the sites, and persons who are or were owners or operators of the sites at relevant times.

In the first of the two partial consent decrees, referred to herein as the Major Party Decree, the settling parties whose waste was disposed of at the sites, or who transported waste to the sites, are Acushnet Company, American Cyanamid Co., American National Can Corp. (formerly National Can Corp.); A.T.C. Petroleum, Inc.; AT&T Technologies, Inc. (formerly Western

Electric Co., Inc.); Atlantic Richfield Co.; Bemis Co., Inc., Chamberlain Manufacturing Corp., Chemical Waste Management of New Jersey, Inc., as successor to Earthline Company (a/k/a R&R Sanitation Services, Gaess Environmental Services, SCA Chemical Services Co., Earthline Division), and the partners in Earthline Company, SCA Services of Passaic, Inc. and Wastequid, Inc.; Ciba Geigy Corp.; Clean Harbors of Braintree, Inc. (formerly SCA Chemical Services (MA), Inc., formerly Recycling Industries, Inc.) and Montvale Laboratories; Clean Harbors of Natick, Inc. (formerly Chemical Waste Management of Massachusetts, Inc., formerly Interex Corporation); Emhart Industries, Inc.; Fairchild Semiconductor Corp.; Foxboro Co.; Franklin Pumping Service, Inc.; General Electric Company; Globe Newspaper Company; Hoechst Celanese Corp. (formerly American Hoechst Corporation); Hoffman-LaRoche, Inc.; ICI Americas Inc., d/b/a Permuthane, Polyvinyl Chemical Industries and Stahl Finish (formerly subsidiaries of Beatrice Companies, Inc.); Millipore Corp., and Millipore Corp., d/b/a Waters Associates, Inc.; Monsanto Co.; Pfizer, Inc.; Polaroid Corp.; and Tech Etch, Inc. The settling parties in the Major Party Settlement whose liability is based on ownership of the sites are (1) for the Londonderry Site: Judy M. Tinkham, Fred L. Tinkham, Fred S. Tinkham, Tinkham Realty, Tinkham Realty, Inc., Tinkham Investments, Londonderry Green Associates, First Londonderry Development Corp., Capital Hill Associates, Northgate Management Corp., Beaver Lake Realty Corp., Sidehill Realty Corp., Dennis S. Sargent, Dolores M. Paino, John F. Paino, Richard Clery, Londonderry Green Realty Trust (collectively, the "Londonderry Owners"); and (2) for the Plymouth Site: Salt Water Trust, d/b/a Cordage Park Company, Francis C. Rogerson, Jr., Arthur B. Blackett, and Konrad Gesner (collectively, the "Plymouth Owners").

Under the Major Party Decree, the settling parties agree to perform EPA's selected remedial actions at two of the four sites: The sites at Bridgewater, Massachusetts and Londonderry, New Hampshire. The remedial action at Bridgewater, Massachusetts, will involve soil removal and treatment, including incineration, and is expected to cost $5,580,000. At Londonderry, New Hampshire, the remedial action will involve soil removal and treatment and groundwater extraction and treatment. The remedial action at Londonderry is expected to cost $9,900,000. The settling parties agree to pay EPA's costs incurred in overseeing the settling parties' response activities. In addition, the settling parties will conduct a soil removal action at the Plymouth, Massachusetts, site, which action is expected to cost $460,000. The settling parties will pay EPA's oversight costs at this site as well. In addition, the Plymouth Owners agree to pay $935,000 for costs incurred for work already undertaken at that site and to provide a letter of credit in the amount of $120,000 to be used in the event that a remedial action is undertaken at that site in the future. Finally, the settling parties have agreed to pay $17,920,000 for past and future response costs incurred at the Nashua, New Hampshire, site. At the Nashua site, EPA has constructed a slurry wall and a groundwater extraction and treatment system, which system has been operating since May, 1986.

The United States has retained its right to sue the Major Party Decree settling parties in the event that additional remediation is needed at the Bridgewater, Plymouth and Londonderry sites due to discovery of unknown conditions or due to additional information acquired after entry of the Major Party Decree. The United States also has retained the right to require the settling defendants to perform additional work if such work is necessary in order to achieve performance standards set forth in the records of decision setting forth the remedial actions to be taken at the Bridgewater and Londonderry sites, or if such work is necessary to protect human health or the environment.

The $17,920,000 to be paid by the settling parties for the Nashua site includes a premium against the possibility of cost overruns at that site. In return for this premium, and due to extraordinary circumstances surrounding the remedial action at that site, under the terms of the Major Party Decree, the United States covenants not to sue the settling parties for a specified portion of any cost overrun at the Nashua site or for costs incurred in responding to unknown conditions unless the additional costs exceed a specified amount. The United States retains its right to pursue its claims against the settling parties for any overruns beyond those specified.

The Major Party Decree provides for stipulated penalties. It also preserves the United States' right to seek judicial review on the administrative record in a dispute with the settling parties over the selection or implementation of a response action. The United States covenants not to sue the settling parties for damages to natural resources under the trusteeship of the Department of the Interior ("DOI") at all four sites or for damages to natural resources under the trusteeship of the National Oceanic and Atmospheric Administration ("NOAA") at the Londonderry site. The United States retains its right to sue for damages to natural resources under the trusteeship of NOAA at the Bridgewater, Plymouth and Nashua sites.

In the second of the two partial consent decrees, referred to herein as the De Minimis Decree, the settling parties are the following parties who disposed of waste at the four sites: Benson Goss Fuels, Century Lumber Co., Clifton Adhesive, Inc., Giusti Baking Company of New Bedford, Ken-Lac Chemical Co., Inc., the City of New Bedford, Petro Serv, Inc., Polyply, Inc., Providence College, The O'Day Boat Corporation, Victory Pearl, and Wright Oil Co., Inc. These parties have agreed to pay a total of $792,000 for past and future response costs incurred at the four sites.

The United States covenants not to sue the De Minimis Decree settling parties for past and future response costs at the four sites. The United States further covenants not to sue the De Minimis Decree settling parties for damages to natural resources under the trusteeship of DOI or NOAA at any of the four sites. The United States retains the right to recover from the De Minimis Decree settling parties the costs, up to a specified maximum, of natural resources damage assessments for natural resources under NOAA's trusteeship at the Bridgewater, Plymouth and Nashua sites if NOAA determines that such assessments are necessary at one or more of those sites.

The United States has retained its rights to pursue all its claims against all non-settling defendants and any other non-settling parties.

The proposed decrees may be examined at the office of the United States Attorney for the District of Massachusetts, 1107 John W. McCormack Federal Office Building, U.S. Post Office and Courthouse, Boston, Massachusetts 02109; at the Region I Office of Regional Counsel, Environmental Protection Agency, J.F.K. Federal Building, Boston, Massachusetts 02203, contact: E. Michael Thomas, Esq.; and at the Environmental Enforcement Section, Land and Natural Resources Division of the United States Department of Justice, Room 1515, 10th and Pennsylvania Avenue NW., Washington, DC 20530. In requesting copies, please enclose a check in the amount of $20.20 for the Major Party

Decree or in the amount of $3.60 for the De Minimis Decree (10 cents per page reproduction charge) payable to the Treasurer of the United States. Additional background information relating to the settlement is available for review at the EPA's Region I Office of Regional Counsel. The Department of Justice will receive written comments relating to the proposed partial consent decrees for a period of thirty (30) days from the date of this notice. Comments should be addressed to Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Cannons Engineering Corp. et al.*, Civil Action No. 88-1786 (D. Mass.), D.J. Reference No. 90-11-3-105.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

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DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act; Requirements for Acceptable Fixed Unit Price, Performance-Based Contracts Written Under 20 CFR 629.38(e)(2)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice; request for comments.

SUMMARY: The Department of Labor is proposing an official interpretation of the requirements for writing acceptable fixed unit price, performance-based contracts which conform to the cost classification waiver provisions of 20 CFR 629.38(e)(2) of the Job Training Partnership Act (JTPA) regulations, and other pertinent sections of JTPA and the JTPA regulations.

DATES: Comments must be submitted on or before September 8, 1988.

The Department of Labor is committed to provide ample advance notice to the JTPA system before a final official policy interpretation takes effect, and will schedule, if possible, this effective date for the start of Program Year 1989 (July 1, 1989).

ADDRESS: Submit comments to: Administrator, Office of Job Training Programs, Employment and Training Administration, Room N-4469, 200 Constitution Avenue NW., Washington, DC 20210.

Commenters on the proposed official interpretation are asked to address one official copy of their comments to the Administrator, Office of Job Training Programs as indicated. To expedite the review and analysis of all responses, it would be helpful if commenters wishing to address individual copies to other Department of Labor officials clearly identify such additional sets as "copies" of the commenters' official submission.

FOR FURTHER INFORMATION CONTACT: Robert N. Colombo, Telephone: (202) 535-0577.

SUPPLEMENTARY INFORMATION: The Department of Labor (DOL) is proposing the following official interpretation of the requirements for JTPA Title II and III agreements to serve adults and youth, which are fixed unit price, performance-based contracts written under the provisions of 20 CFR 629.38(e)(2) in JTPA regulations. This notice follows an extensive 7-month public discussion of performance-based contracting in JTPA, and careful consideration of comments received in response to a March 11, 1988, publication for comment of a paper describing the issues and options the Department was considering prior to formulating policy.

The publication of this proposed policy presents an important opportunity to revise previous thinking in this area of JTPA policy, and to draw upon the considerable amount of work done by all partners in the JTPA system in responding to the March issues/options paper. While there is by no means a present consensus on the issues, there are, in the Department's view, emerging grounds for a policy interpretation that addresses both the Federal concern for better conformance with statutory direction and the concern of State, local, and private sector partners for non-Federal management prerogatives and the flexibility to innovate in the design and operation of training programs.

The resultant proposed policy broadens the interpretation of appropriate training activities under this regulation to encompass both vocationally specific and remedial skills training, as long as both are designed to lead to placement in an occupational target. The Department has modified its thinking on the nature of payments to contractors prior to placement, in part to facilitate investment in higher-quality training for at-risk individuals as well as to recognize legitimate pre-placement attainments that can be the basis of earned payment under a performance-based contract. Finally, the proposed policy treats revenues in excess of costs accrued by public and private non-profit agencies through JTPA agreements in a way to maintain the concept of agency gain from success concomitant with contract risk, as long as the funds are used for an authorized program purpose.

Following the completion of the comment period on the proposed official policy interpretation, DOL will study all comments received, make any necessary adjustments to the statement of interpretation, and publish the final official policy interpretation in the **Federal Register**. At this time, it is anticipated that the effective date of the final policy interpretation will be July 1, 1989.

Official Policy Interpretation of the Requirements for Acceptable Fixed Unit Price, Performance-Based Contracts Written under 20 CFR 629.38(e)(2)

Introduction

This notice presents the Department of Labor's proposed official interpretation of the requirements for contracts written with JTPA service providers pursuant to 20 CFR 629.38(e)(2). It also identifies a number of policy provisions recommended for adoption by States which are not found within the specific language of 20 CFR 629.38(e)(2) and, therefore, are not required. These recommendations are, however, in the Department's judgment necessary and appropriate for the proper administration of fixed unit price, performance-based contracts given the nature of the JTPA system and of statutory design.

The proposed official policy interpretation will follow the order of presentation in the March 11, 1988 publication of "Policy Considerations in Administering JTPA Regulations on Fixed Unit Price, Performance-Based Contracts (53 FR 7989)." The three main areas are:

—The nature of training activities properly chargeable under 20 CFR 629.38(e)(2);

—Issues surrounding current practices in the JTPA system for making payments to contractors; and

—The question of revenues in excess of costs (or "profits") realized through agreements with public and private non-profit agencies.

The statement of the proposed official policy interpretation will be preceded by summary of the many comments received by the Department in response to the March 11 issues/options paper, and by a listing of the principles which the Department followed in debating and formulating the proposed policy.

Background on Performance-Based Contracting in JTPA

On March 15, 1983, DOL published implementing regulations for programs under the Job Training Partnership Act (48 FR 11081), which included the provisions of 20 CFR 629.38(e)(2) governing the use of fixed unit price, performance-based contracts. These regulations were modified by section 7 of the Carl Perkins Vocational Education Act of 1984, Pub. L. 95–524 (June 15, 1985 JTPA Regulations, 50 FR 24764), incorporating a provision of section 141(d)(3) of JTPA on training packages for youth.

This section of JTPA regulations established conditions for contracts written for training that were fixed unit price and specified the following performance criteria for full payment:

Participants are to complete training;
—Be placed;
—In the occupation trained for;
—At not less than the wage specified in the agreement.

The source of this regulation was an administrative action on the part of DOL to transfer into JTPA an identical provision from the Comprehensive Employment and Training Act (CETA) regulations. The CETA regulation had been adopted after the CETA amendments of 1978, to give flexibility to certain private sector trainers to bid on a fixed price basis for performance-based training contracts without being required to break out the administrative cost component of their fixed price total, which they considered to be proprietary information.

Most CETA agreements remained cost reimbursable, although a number of jurisdictions experimented with contractual variations including minimum performance criteria to earn reimbursement. Fixed unit price, performance-based contracting was limited generally to more intensive occupational skill training to meet known labor market needs in relatively higher-paying entry level jobs.

Although the JTPA statute contained no discussion of this or any specific contracting methodology, the belief was that performance-based contracting was consistent with the overall approach of the statue, particularly in its emphasis on placement outcomes and private-sector involvement. The assumption of the Department, clearly wrong in retrospect, was that performance-based contracting under JTPA regulations would go forward as it had under CETA, and expand modestly according to the new system's abilities to develop additional high-quality skills training.

During the period of JTPA implementation a number of inquiries were raised on the application of 20 CFR 629.38(e)(2). The Department chose to respond to these specifically, and avoided generalized statements that might be seen to limit ongoing policy development by States, Service Delivery Areas (SDAs) and their private industry councils (PICs). However, these DOL responses were circulated, and additional requests were made by JTPA program officials for the Department to clarify certain points of its answers. In August 1983, DOL indicated that it was planning to issue a proposed policy letter on this subject. Six national organizations involved in training and employment wrote the Department in September 1983, requesting that DOL refrain from issuing a policy statement on the use of fixed unit price, performance-based contracts under this section of the regulations, fearing that Federal policy-making would have a disruptive rather than positive effect on the establishment of new systems and relationships for delivery of JTPA services. In their letter, the organizations invited DOL to revisit this policy area, after monitoring "this and other transition issues and to base any subsequent policy interpretation upon real program experience with JTPA."

DOL did not make further proposals for general guidance, and dealt with questions and problems involving this regulation on a case-by-case basis. During the early spring of 1987, however, it became apparent that some Federal policy was seriously needed, in part to respond to instances of problems and possible abuse, and in part to spur the JTPA system to think through issues involved in proper administration of fixed unit price, performace-based agreements, and in administration of JTPA procurement in general. Varying levels of formal policy had been developed throughout the JTPA system, and in some areas a vacuum existed which made poor procurement practices, loosely written agreements not conforming fully to 20 CFR 629.38(e)(2), and questionable administrative arrangements possible.

In the interval since JTPA implementation, the use of performance-based contracting had grown steadily, and the Department perceived a major shift with the start of Program Year (PY) 1986 (July 1, 1986—June 30, 1987). Contracts written under 20 CFR 629.38(e)(2) so as to be chargeable 100 percent to the training cost category had now become the predominant mode for service provider agreements under Title II–A. The Department recognized that due to its administrative adoption of this regulation, DOL had particular responsibilities to ensure that performance-based contracting was being used in a legitimate and fully supportable fashion. The strong focus of the JTPA legislation was on training—at least 70 percent of funds to be expended at the SDA level—with definite limits placed in Section 108(a) and (b) on availability for administration and participant support. Use of 20 CFR 629.38(e)(2) provisions without attainment of superior levels of high-quality, high-wage entry level placements would leave the JTPA system vulnerable to serious national criticims.

After a 6-month review to determine current practices in the JTPA system and to analyze examples involving non-compliance with the regulations or otherwise questionable and problematic circumstances, the Department published Training and Employment Guidance Letter (TEGL) 3–87 on November 18, 1987. In the TEGL, DOL described a series of problems that had been identified with fixed unit price performance-based agreements, enumerated types of "problem contracts," and asked for the cooperation of States, SDAs and PICs to examine local contracting practices and particularly compliance with procurement codes.

Following publication of the TEGL, DOL began a series of public discussions on performance-based contracting at meetings of national and regional groups, to establish a dialogue with all portions of the JTPA system. Internally, the Department completed its own review of all main issues and options for policy guidance, regulatory interpretation, and/or new rulemaking. Rather than moving ahead at the time with a DOL policy statement, it was decided to prepare a paper for public review and comment which presented, in the Department's judgment, the issues which existed and the options in resolving questions. Accordingly, the paper "Policy Considerations in Administering JTPA Regulations on Fixed Unit Price, Performance-Based Contracts" was released to public interest groups on February 22, 1988. A briefing was held for Congressional staff from House and Senate Committees on February 23, and the paper was published for a 30-day comment period in the **Federal Register** on March 11.

Comments on the March 1988 Issues/ Options Paper

A total of 209 separate letters or statements of comment was submitted to the Office of Job Training Programs,

Employment and Training Administration (ETA), prior to the close of the comment period. Many comments were received from multiple sources, as commenters had also were received from multiple sources, as commenters had also sent copies to their Congressional delegations, State JTPA administrations, as well as to the Office of the Assistant Secretary for Employment and Training. While some commenters presented summary statements of their views or positions in response to the issues, many commenters presented detailed, point-by-point discussions, reflective of a considerable level of involvement with the subject matter. The Department remains impressed with the level of effort and thought evidenced in the comment letters. Considering the volume of comments, what follows will necessarily be a greatly simplified and condensed overview of basic positions taken.

Correspondence and position papers received following publication of TEGL 3-87 were also included in DOL's comment review and analysis. In addition, a number of United States Senators and members of the House of Representatives have written to transmit or endorse the comments of their constituents.

General Overview

The great majority of commenters would prefer for the Departemnt to issue no further policy guidance, interpretation, or regulations on the use of performance-based contracts in JTPA pursuant to 20 CFR 629.38(e)(2). While most commenters concurred to some degree with DOL's analysis of problems, the majority felt these problems resulted from procurement system weaknesses which State and local action was in the process of correcting. System-wide problems of interpretation involving 20 CFR 629.38 were not believed to be substantial, and abuses were believed to exist only in isolated examples. These the Department could better pursue on a case-by-case basis, without burdening the rest of the JTPA system with more regulation. Commenters expressed fears that DOL policy would destabilize their programs. PICs in particular were concerned that any new policy coming from DOL might limit the private-sector approaches being taken within their jurisdictions.

A minority of commenters expressed a conditional level of support for DOL policy guidance. Some of these criticized DOL's 'hands-off' approach at the national level in prior years, feeling that earlier policy leadership would have prevented present problems and would have improved practices. A number of commenters found options they supported in several, but not all major areas described in the March 11 Notice. Finally a group of commenters recognized that a national problem was posed by the approach taken to the JTPA cost limitations found in section 108 of the Act through the use of 20 CFR 629.328(e)(2), without adequate controls to ensure that the deliverable—skills training resulting in specified placements—justified the departure of the system from the statutory cost limits.

It is relevant to report that a body of the letters indicated confusion whether the issues/options paper presented a series of actual DOL policy decisions. Similarly, other commenters thought that the requirements of 20 CFR 629.38(e)(2) came directly from the Act.

Nearly all commenters expressed belief that ETA should be providing technical assistance on contracting methods.

Training Activities Chargeable Under 20 CFR 629.38(e)(2)

On the basic question whether there should be a definition of training activities chargeable under this regulation, most commenters supported a definition to be made by the State (using the Governor's authority to define, pursuant to 20 CFR 627.1) or the PIC (since the PIC develops guidelines for skill training programs pursuant to section 107(d) of the Act). A group of commenters in the Midwest saw the question answered by the current regulatory language, "placement in the occupation trained for," with training therefore to be occupationally specific. A number of carefully presented agruments were given that non-occupationally specific remediation in basic literacy and math was more valuable in obtianing placements, since participants may have some occupational skills but lack general skills, or lack time and funding for basic living expenses to enroll in longer-term training. Comments were offered in support of job search assistance (JSA)-only training interventions as allowable under § 629.38(e)(2).

Most commenters favored DOL guidance that training packages are acceptable under the current regulations, but were opposed to a list of acceptable elements. Several commenters supported examples of acceptable training packages, as long as such guidance was not inclusive and would allow State/local flexibility.

On the matter of umbrella contracts, commenters appeared to be evenly divided between endorsing the option that DOL policy indicate such contracts could be only written under 20 CFR 629.38(e)(2) if there was a method to ensure that the costs of participants who do not receive training are allocated among the normal JTPA cost categories, and those who believe DOL should deal with problem contracts on a case-by-case basis. A number of commenters wrote that eliminating umbrella, blanket, or "comprehensive service contracts" is not a viable option, due to the needs of rural areas for a one-stop service center, and the needs of target groups in urban areas for comprehensive serivices. Some presented the view that such contracts can, with greater effort expended, be constructed more tightly, be properly competed, with deliverables clearly delineated and proposed costs evaluated for reasonableness prior to award. Several comments dealt with tiered administrative structures below the level of the SDA, and "broker" arrangements. Although the SDA might retain the entire 15 percent available for its administrative expenses, its umbrella contractors may not themselves be actual or major service providers; rather, each contractor in turn may write performance-based contracts with the actual service providers. Both "tiers" below the SDA might be charged 100 percent to the training cost category under a local interpretation of 20 CFR 629.38(e)(2).

There was not much controversy about the Department clarifying that training packages for youth were acceptable, as long as such packages could be written for the attainment of one or more youth competency skill areas or other outcomes specified by the PIC per section 106(b)(2) of the Act. This issue had been included due to a technical question of the relationship between new DOL reporting requirements and acceptable contracts under § 629.38(e)(2) of the JTPA regulations. Beginning in PY 1989, DOL reporting instructions require SDAs to report attainments for youth who have acquired two or more skill areas, rather than one or more skill area attainments as in earlier years. Since SDAs anticipate linking with basic education and vocational education programs for a part of youth competency training, the Department did not wish to preclude contracting arrangements for the provision of only one youth competency skill area.

Payments to Contractors

A very small portion of the comment letters supported the Department's interpretation that § 629.38(e)(2)(iii) of the regulations meant that contracts should treat all incremental payments

made prior to full performance/placement as a form of advance contingent on the placement results, with payments to contractors not achieving full performance to be either prorated among the normal cost categories or reimbursed. Commenters pointed out that DOL had not previously issued general guidance on this key point. Some believed that DOL has misread its own regulations, which stipulate full payment for full performance, but do not exclude and therefore implicitly allow less than full payment for less than full performance. Others pointed out that incremental payments are customary in private sector contracts, where the performance of benchmarks earns payment. Finally, a major objection to DOL's presentation was that reimbursement of advances by unsuccessful contractors would greatly increase risk and therefore unit prices. Proration of costs among the cost categories was not an acceptable option to SDAs, who could not live with uncertainty and possible inflation of reportable administrative costs above planned levels.

Unlike the incremental payments issue, there was diversity of opinion on the question of guidance on the proportion of the full contract that should be withheld from payment until completion of the placement phase. Approximately half of the commenters believe a holdback policy to be a contracts management question, and should be adjusted for either short-term, or long-term and high-risk skills training. A number of PICs wrote of holdback policies more stringent than DOL's option of a 25 to 30 percent amount.

Commenters were also divided on the value of Federal guidelines on acceptable placement wage rates specified in agreements. A number of comments seemed to welcome guidance clarifying that placement wage rates may be specified according to State and SDA policies as an average rate for placements, or as a range of acceptable rates. Others wrote they saw no need for Federal policy in this area, given overall JTPA performance standards. A minority of commenters argued in favor of establishing an acceptable floor level or lowest-value for placement wage rates.

Revenues in Excess of Costs Accrued by Public and Private Non-Profit Agencies

The third option presented in the March 11, 1988, notice clearly had the most support—to take no Federal action in the short run to clarify the use of "profits" earned by such agencies through performance-based contracts, but to deal individually with cases where excessive profits appear to have been earned. Many commenters recommended that DOL issue technical assistance on suggested ways for SDAs to "look beyond the unit price" and identify the potential for excessive profits. Several pointed out that an SDA paying an excessive amount of funds through a performance-based contract to either a private-for-profit or a public or private non-profit entity must have its procurement system reviewed.

In contrast to SDAs, at the State level, a larger minority supported either the first or second option described below. Option 1 was for Federal guidance to indicate that revenues in excess of costs earned by public and private non-profit agencies under 20 CFR 629.38(e)(2) were subject to the Internal Revenue Service (IRS) and all other applicable limitations on use. Option 2 went further, specifying that all such revenue was to be considered "program income," and was accountable under JTPA regulations at 20 CFR 629.32. In the main, Option 1 was preferred by those States supporting a Federal policy.

Support for the third option (such revenues to be considered program income) came primarily from a relatively small number of commenters at the national level and from independent non-State, non-SDA commenters. One respondent believed a compromise on this issue was a possible result, with public agencies and non-profit organizations able to realize revenues in excess of costs for taking the risks, with this "program income" devoted in some way to improving or enlarging job training activities.

DOL's Rethinking of Issues Involved in the Administration of 20 CFR 629.38(e)(2), as a Result of Comments

The review and analysis of comments made in response to the March publication of the issues/options paper and the information gained during the public consultation process caused the Department of rethink its own basic assumptions about fixed unit price, performance-based contracts. The comments considerably advanced DOL's education on the actual ways the JTPA system does business at the local level, how PICs view there central role in decisionmaking, and how the predominant reliance on performance-based contracting and the cost flexibility of 20 CFR 629.38(e)(2) has significantly increased the JTPA system's vulnerability if contracts written under this regulation are poorly awarded or administered.

This third realization has lead the Department to reemphasize the critical importance of procurement practices in the proper administration of programs. Program directors and PICs should promote better adherence in the JTPA system to generally accepted standards for procurement, including competition in selection and methods for analyzing the reasonableness of proposed costs. Developments in procurement which resulted from State and local review of procurement systems after the issuance of TEGL 3–87 should be followed up, for it is critical to JTPA that any improvements found to be needed be implemented fully and promptly.

DOL has responded to the information presented by commenters by deciding not to tie the official interpretation of training under § 629.38(e)(2) strictly to occupationally specific training, so as not to disturb a number of valid skills remediation designs in use which lead to designated placements. Also, the Department has decided that the earlier question of whether placement occurred in the specific "occupation trained for" or in a "training-related" job was not important, as long as States and SDAs used good judgment in giving full payment credit for placements obtained. Placement, however, should still be connected to the actual training provided and fall within a pre-determined occupational target (albeit generic) established in the contract. DOL determined that JSA-only training interventions did not constitute a sufficient investment in participants to afford contractors and SDA's the cost and accounting flexibility of a contract chargeable 100 percent to the training cost category. All contracts written under § 629.38(e)(2) must meet certain standards, including those written for multiple training sequences and/or comprehensive services.

The Department has accepted arguments put forth on the validity of payments made for the attainment of competencies prior to placement or other measurable performance benchmarks as the basis of earned payments by contractors under § 629.38(e)(2). DOL still believes that payments made prior to placement should total less than actual contract costs up through the placement phase, so that sufficient incentive for performance "rides" on placement. While DOL recognizes that State/local flexibility is needed to make appropriate adjustments in contract terms, in general the holdback of the full fixed price should be in the 25 to 30 percent range.

Relatedly, the Department strongly recommends that each State establish guidelines on a threshold level of placement success that performance contracts must reach in order to qualify

for charging 100 percent of the costs to the training cost category. Proper administration of 20 CFR 629.38(e)(2) requires that the costs of contracts that fail in performance should be prorated among the normal JTPA cost categories of training, participant support, and administration, although under current regulations the definition of such a threshold can only be recommended to States for action.

Additional deliberation on the dilemma posed by free-use "profit" earned by public and private non-profit agencies through the provision of JTPA services has convinced the Department to propose that all revenues in excess of costs accrued by such agencies be considered program income, to be expended for a purpose authorized for the program.

Finally, because the use of performance-based contracting is nearly prevasive, DOL recognizes that administration of requirements touches on most aspects of JTPA planning and programmatic direction. The Department has decided to rethink the application of 20 CFR 629.38(e)(2) in terms of 1988 circumstances, not its original 1983 assumptions. There has been a shift in labor force new entrants towards the Year 2000 workforce profile of increased percentages of females, minority youth, and recently admitted foreign-born workers not yet proficient in English. This suggests that the JTPA system needs to refocus performance-based contracts away from short term training, and more towards longer-term, enriched program designs that can make the investment necessary in at-risk and harder-to-serve segments of the eligible population for these individuals to obtain employment and avoid welfare dependency. Properly administered, the requirements of 20 CFR 629.38(e)(2) can be used to encourage programs and services which address the needs of the more at-risk segments of the eligible population. Requests for proposals can specify the types and duration of training interventions required and set SDA/PIC-determined target group service requirements, resulting in performance-based agreements for longer-term, higher-cost training appropriate to the needs of the JTPA eligible population.

Proposed Official Interpretation of the Requirements of 20 CFR 629.38(e)(2)

Basic Principles of the Department in Establishing an Official Policy Interpretation:

—The Department of Labor's overall objective is to provide operational guidance within the framework of the current 20 CFR 629.38(e)(2) regulation, but proper administration of performance-based contracts calls for the establishment of some new policies, which DOL will recommend for State adoption.

—There is no entitlement on the part of the system to the use of performance-based contracts per 20 CFR 629.38(e)(2). It is available only if all of the specifications are met.

—The Department continues to maintain that properly written, performance-based contracts under 20 CFR 629.38(e)(2) are not required to separately report or break out administrative costs for accounting purposes.

—In exchange for the advantage offered by the performance contracting mode, the JTPA system must accept that risk is an inherent feature, both for service providers and SDAs.

—Explicit instruction needs to be provided on the elements necessary for an acceptable performance-based contract.

—DOL is committed to maintaining the opportunity for rewards and incentives for successful operators, but recognizes that public and private non-profit agency excess revenue accruing from contracts must remain within the JTPA system.

—The new policy framework for preformance-based contracts should be undertaken within the context of current policy objectives for the JTPA system, namely: Increase the level of participation of at-risk populations in the program; increase the quality of the training intervention; expand the amount of basic skills training being provided; and thus improve the quality of placements for JTPA participants.

—The Department must undertake the establishment of new policy on performance-based contracting collegially, making clear DOL objectives and DOL's rethinking and reformulation of issues, with the goal that the JTPA system fully understand and accept DOL's objectives even if there is not full agreement on all aspects of the Department's interpretation.

—It is clear that technical assistance is needed for procurement in general and specifically for the new performance-based contracting policy. This may include assistance to States in setting rules.

States and SDAs should implement DOL's interpretations and policy guidance regarding 20 CFR 629.38(e)(2) within the framework of the principles stated above.

Elements of the Department's Interpretation

I. Training Activities Chargeable

A. Definition of allowable adult and youth training activities for the purposes of 20 CFR 629.38(e)(2):

• Training must consist of a core of either occupational training or basic skills/remediation training, or both.

• All training must be geared to make participants employment competent and must be tied to a specific or a general occupational target. This training need not involve a specific job title, but can encompass a range of jobs with similar entry requirements.

• Placement must be at or above the specific wage in the agreement, and reflect an appropriate entry wage rate for the specific or general occupational target, given the relative skill level of trainees. Again, this can mean a range of jobs. For example, the skills needed for a data entry technician allow entry into jobs with different occupational titles and types of companies.

B. Clarification of the allowability of training packages for the purposes of 20 CFR 629.38(e)(2):

Acceptable elements may include but are not limited to outreach, intake, skill assessment and employability development planning, participant services, basic skills development, counseling, pre-employment/work maturity training, job search assistance, and followup services, provided that a core of basic skills and/or specific occupational training per I.A. above is the primary purpose of the contract. Also, the program must be designed for all participants to receive the core training.

C. Specifications for acceptable contracts:

• In general, contracts are to be written in accordance with sound procurement practices and applicable codes. This includes methods for assuring wherever possible competition for award, arm's length negotiation of contracts, and proposal review which verifies the reasonableness of proposed costs.

• Each contract shall clearly list and separately price each training curriculum to be provided. All curricula shall have a separate fixed unit cost.

All elements constituting the training package must be clearly spelled out in the contract. This includes the course schedule for each element, the hours and/or the number of weeks of training, the expected number of total participants who would require the element, the policy regarding non-

completers and the measurable outcome.

• The contract should clearly indicate the organization which is providing the training, participant services and administration being charged to the contract. Care should be given to assuring that only those administrative costs attributable to the training are chargeable under the contract. However, DOL is in no way requiring that the actual performance-based contract document separately list administrative costs, or require a separate reporting of administrative costs included in the full unit prices.

• Job Search Assistance designs. Services and participant sequences that do *not* involve core training per I.A. above such as JSA-only interventions, are not acceptable under the 20 CFR 629.38(e)(2).

• Further, it is strongly recommended that States establish policies for performance-based contracts to be designed to accommodate and encourage service to more at-risk populations. This might involve an additional adjustment to the unit price to provide increased financial incentive for training and placing a more at-risk population.

D. Allowability of Umbrella Contracts:

All contracts, including umbrella, blanket, or comprehensive service contracts must meet the requirements of elements I.A., B., and C. above in order to qualify for the cost charging provisions under 20 CFR 629.38(e)(2). The costs of fixed unit price, performance-based agreements which do not satisfy these requirements are to be allocated among the normal JTPA cost categories of training, participant support, and administration.

E. Clarification Regarding Training Package for Youth:

Contracts may be written under 20 CFR 629.38(e)(2) for training packages for youth, which stipulate full performance as attainment of one or more PIC-recognized competency skill areas per the list of positive outcomes found in section 106(b)(2) JTPA, or if the training results in employment.

II. Payments to Contractors Under 20 CFR 639.38(e)(2)

A. Full Payment. Full payment of the full unit price is contingent upon:

• Completion of training;

• Placement in the occupation trained for or within a general occupational target;

• At not less than the wage rate specified in the agreement.

Further, the Department recommends that States/SDAs set a policy indicating this wage rate should reflect the entry level wage for the occupational target.

• The agreement must provide for a method to reduce payment in cases where individuals do not complete the training but do place successfully per the contract, or complete the training and are placed below the specified wage level. For example, a participant in word processing drops out in the fifth week of a 10-week training program, but obtains a training related job within the general occupational target at or above the specified wage.

Further, the Department recommends that State/SDA policies provide that participants who leave before entering core training per I.A. above either

—Cannot be the basis of any payment earned by the contractor; or

—Are only the basis for earned payments that are apportioned or prorated among the regular JTPA cost categories, and not charged 100 percent to training.

B. Partial earned payments for attainment of performance benchmarks. The Department has determined that in specific circumstances performance short of full performance/placement can be the basis of earned payments for partial performance when:

• The performance is measurable and documented and includes training per I.A. above;

• The payment schedule amount for any intermediate benchmark is not more than the estimated costs of providing that increment of the planned training. However, the subtotal of possible payment schedule amounts for all performance benchmarks prior to full performance/placements is to be clearly less than the point at which the contractor's costs are covered, in order to ensure the principle of contractor risk and to stimulate contractor performance to earn full payment.

• Costs associated with intake, enrollment and assessment activities alone without participation in core training are not to be the basis of earned benchmark payments chargeable 100 percent to the training cost category per 20 CFR 629.38(e)(2).

C. Advance Payments. All payments made to contractors prior to full performance/placement that do not conform to the above requirements for benchmarks are to be considered advances contingent on the full performance/placement record of the contract.

D. Guidance on Payments to be Withheld Prior to Full Performance. Whether payments made to contractors prior to full performance/placement are advance payments or partial earned payments for the attainment of performance benchmarks, in principle a significant portion of the total fixed price should be held back until earned through placement. States and SDAs have latitude to adjust the amount held back to accommodate longer-term and more intensive programs serving at-risk populations, recognizing the operational needs of contractors for funds. As a matter of general guidance, an amount equal to 25 to 30 percent of the total contract cost would appear to be a prudent and significant holdback level, well below reimbursement of total contractor expenses, and insuring that contracts are consistent with the performance-based contracting concept of risk prior to full performance.

E. Threshold for Contract Performance in Order to Qualify for Provisions at 20 CFR 629.38(e)(2).

In the Department's consideration of payment issues, it was determined that there is a level of contract placement performance below which the contract has failed. Failed contracts should not be afforded under State/SDA policies the advantage of assigning all costs to training according to the provisions of 20 CFR 629.38(e)(2). Therefore, the Department strongly recommends that States and SDAs define a threshold level of placement performance below which a performance-based contract written under 20 CFR 629.38(e)(2) would be determined to have failed. States and SDAs should establish procedures for allocation or proration of all costs of such failed contracts among the regular three JTPA cost categories. This threshold level should be appropriately specified, taking into account greater or lesser contractor risk in terms of length, complexity of training, and the population to be served by a contract.

F. Direct Contracts, Versus Tiered Administrative Structures. Contracts which qualify for the cost allocation provisions of 20 CFR 629.38(e)(2) are contracts for the direct provision of training by an agency, institution, or business, and should never involve intermediary administrative entities. Such an entity, if needed, should be charged to the administrative cost category. This element of DOL's interpretation does not preclude subcontracting by the training contractor of some specialized client services if this is determined to be more effective and efficient, and is authorized by State/SDA policies and the contract document.

III. Revenues in Excess of Costs, or "Profits"

Public or private non-profit contractor revenues in excess of costs (which have been properly earned) are to be treated as program income pursuant to 20 CFR 629.32. Accordingly, these funds may be retained by the service provider (or by the SDA or the Governor) to underwrite additional training or training related services pursuant to the project or program which generated them, consistent with the purposes of JTPA. As with other JTPA program income, contractors are to maintain records which account for the use of these funds, in anticipation of possible audit.

Conclusion

In the Department's view, fixed unit price, performance-based contracts written under the provisions of 20 CFR 629.38(e)(2) can, if properly administered, focus JTPA resources on strong training approaches that will result in quality placements. It is recognized that these contracts can also increase the effective investment in the JTPA participant to bring about better placement outcomes than those obtained through other modes of contracting. Further, performance-based contracts can be written specifically to improve the degree to which at-risk populations are helped through JTPA. For these objectives to be achieved, some JTPA administrators and PICs will need to move beyond preoccupation with ways to increase total funds available for administrative costs by artificially structuring every service provider agreement or sub-SDA administrative entity agreement as an agreement chargeable 100 percent to training. Similarly, others will meet to reconsider approaches that set over-inflated service provider agreement placement goals. These approaches cause contracts to be written under 20 CFR 629.38(e)(2) primarily to ensure that an SDA has a fail-safe method for achieving its overall performance standards, without careful consideration of pressures on contractors to cream the eligible population to obtain easier, less at-risk participants and low cost placements.

Because the present day reliance on the performance-based contract mode is so pervasive, issues concerning State, SDA, and PIC basic program philosophies and priorities must necessarily be weighed and mediated in administering agreements, in addition to the technical considerations of procurement, contract content, and compliance with Federal requirements. This presents a second and equally important level of challenge in designing the most appropriate contracting approach in each State and SDA.

Signed at Washington, DC, this 2nd day of August 1988.

Roberts T. Jones,

Acting Assistant Secretary of Labor.

[FR Doc. 88-17954 Filed 8-8-88; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-88-127-C]

Becky Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Becky Coal Company, Inc., P.O. Box 532, Pineville, Kentucky 40977 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 5 (I.D. No. 15-16247) located in Whitley 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 a methane monitor be installed on any electric face cutting equipment, continuous miner, longwall face equipment and loading machine and is required to be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure the detection of any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous monitor will be available to assure that all coal hauling tractors will be equipped with a continuous monitor;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

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 September 8, 1988. Copies of the petition are available for inspection at that address.

Date: August 3, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-17955 Filed 8-8-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-123-C]

Green River Coal Co. Inc.; Petition for Modification of Application of Mandatory Safety Standard

Green River Coal Company, Inc., Route 3, Box 284-A, Madisonville, Kentucky 42431 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 Green River No. 9 Mine (I.D. No. 15-13469) located in Hopkins 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 permanent pumps be housed in fireproof structures or areas.

2. As an alternate method, petitioner proposes to use a TRW submergible pump to drain water from the sump beneath the intake air shaft. In support of this request, petitioner states that—

(a) The operating electrical parts of the submergible pump are submerged in water in the sump at all times;

(b) In the event the water level in the sump drops more than 1 inch below the intake point on this pump, the pump would discontinue pumping water from the sump. Therefore, the electrical operating parts of the pump are never exposed; and

(c) The electrical power supply to the submergible pump enters the pump at a point which is also below the water level in the sump at all times.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 8, 1988. Copies of the petition are available for inspection at that address.

Date: August 3, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-17956 Filed 8-8-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-125-C]

Jean and Mary Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Jean and Mary Coal Company, Inc., 109 Broad Bottom Road, Pikesville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.035 (weekly examinations for harzardous conditions) to its No. 1 Mine (I.D. No. 15-13745) 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 return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that the abandoned area of the mine has been closed because of unsafe roof conditions. To restore one entry to safe condition would require six months work, or longer, in an area that is already deemed dangerous.

3. As an alternate method, petitioner proposes to establish two evaluation points at the beginning of the abandoned area where a qualified person can examine the quantity and quality of air used to ventilate the abandoned area. In support of this request, petitioner states that—

(a) These examinations would be made daily, instead of weekly, and recorded in the pre-shift/on-shift examination book;

(b) This abandoned area is not part of the mine's escapeway system, intake and belt entries are escapeways;

(c) Air passing through this area does not pass over any power sources; and

(d) No methane has been detected in this area.

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 September 8, 1988. Copies of the petition are available for inspection at that address.

Dated: August 3, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-17957 Filed 8-8-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-132-C]

Kerr-McGee Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kerr-McGee Coal Corporation, P.O. Box 727, Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trollery feeder wires, high voltage cables and transformers) to its Galatia Mine 56-1 (I.D. No. 11-02752) located in Saline County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trollery wires and trolley feeder wires, high voltage cables and transformers not be located inby the last open crosscut and be kept at least 150 feet from pillar workings.

2. Petitioner plans to use longwall equipment in the No. 6 seam at the mine. The width of the coal panels will require 2900 horsepower to power the longwall system. In order to supply power to such a system from a power system limited to 1000 volts, the following problems arise:

(a) The ampacity requirements at 1000 volts are such that very heavy cables are required. These large, heavy cables can cause congested work space, handling problems, and accidents associated with sprains and strains;

(b) Poor voltage regulation resulting in motor overheating and lack of torque to be supplied to the face conveyor; and

(c) At 1000 volts, the interrupting limits of the available circuit breakers is approached, resulting in a diminished safety factor.

3. As an alternate method, petitioner proposes to use high-voltage (2,400 volt) cables to supply power to permissible longwall face equipment in or inby the last open crosscut, with specific equipment and conditions as outlined in the petition.

4. Petition 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 September 8, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-17958 Filed 8-8-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-120-C]

North Star Coal Company, Inc.

Petition for Modification of Application of Mandatory Safety Standard

North Star Coal Company, Inc., 110 Main Street, Oak Hill, West Virginia 25901 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its Beckley No. 4 Mine (I.D. No. 46-02166) located in Raleigh 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 automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. As an alternate method, petitioner proposes to install an early warning fire detection system. A low-level carbon monoxide (CO) detection system would be installed in all belt entries, at each tailpiece and at intervals not to exceed 2000 feet along each conveyor belt entry. The velocity of air in the belt conveyor entry would be 50 feet per minute or greater and have a definite and distinct movement in the designated direction. The low-level CO system would be capable of giving warning of a fire for a minimum of four hours after the source of power to the belt is removed. The CO system would initiate the fire alarm signals at an attended surface location where there is two-way communication. The person would be located so that the signal can be seen if CO levels reach 10 parts per million (ppm) and heard at 15 ppm above the ambient level for the mine. The person would be trained in the operation of the CO monitoring system and in the proper procedures to follow in the event of an emergency or malfunction. The CO system would be capable of identifying any activated sensor and for monitoring electrical continuity to detect electrical malfunctions.

3. The CO monitoring system would be visually examined at least once each shift and tested for functional operation weekly to ensure the monitoring system is functioning properly. The monitoring system would be caliberated with known concentrations of CO and air mixtures at least monthly.

4. If the CO monitoring system is deenergized for routine maintenance or for failure of a sensor unit, the belt conveyor may continue to operate if qualified persons will patrol and monitor the belt conveyor using hand-held CO detecting devices.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 8, 1988. Copies of the petition are available for inspection at that address.

Date: August 3, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-17959 Filed 8-8-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-116-C]

Stump Coal Co. Inc.; Petition for Modification of Application of Mandatory Safety Standard

Stump Coal Company, Inc., R. 3, Box 898, Phelps, Kentucky 41553 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 7 Mine (I.D. No. 15-12359) 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 seals be examined in their entirety on a weekly basis.

2. Petitioner states that a seal installed in the No. 6 entry cannot be safely examined because of an approved corrective action plan for the inadvertent penetration of an active gas well pipe casing.

3. As an alternate method, petitioner proposes to establish air measurement stations that would allow effective evaluation of the ventilation in the area. All air measurement stations and approaches to the stations would be maintained in safe condition. All measurements would be made by a certified person. The date, time and results of the examinations would be recorded in a book, or on a date board at each measuring station. In support of this request, petitioner states that—

(a) A map showing the normal direction of the air current flow in this area would be posted at each measuring station and at other strategic locations. Any change in the flow of the air currents would immediately be reported to the mine foreman;

(b) All persons who work in this area would be instructed in emergency evacuation procedures. Persons not normally employed in this area would be instructed in emergency evacuation procedures and escapeway routes before starting work in the area;

(c) The mine is located above drainage and no methane liberation has been detected;

(d) The mine is ventilated by the use of an exhausting fan;

(e) Explosives are not used, as coal is mined by use of continuous mining methods; and

(f) A high pressure water line, fire sensors and required fire fighting equipment are maintained.

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 September 8, 1988. Copies of the petition are available for inspection at that address.

Dated: August 3, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-17960 Filed 8-8-88; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[88-72]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by September 8, 1988. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: John F. Duggan, NASA Agency Clearance Officer, Code NPN, NASA Headquarters, Washington, DC 20546; Bruce McConnell, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 453–1090.

Reports

Title: Radio Program Survey and Promotion.
Type of Request: New.
Frequency of Report: Semi-annually.
Type of Respondent: Businesses or other for profit, non-profit institutions, small businesses or organizations.
Number of Respondents: 1,400.
Hours per Response: .10.
Annual Responses: 2,800.
Annual Burden Hours: 280.
Abstract-Need/Uses: Form NHQ Div. 715 will be used to periodically survey and monitor the use of NASA's "Space Story" and "Frontiers" programs that have been distributed to radio stations throughout the country. It provides the necessary information for NASA to measure the effectiveness of these public service programs.

John F. Duggan,
Director, General Management Division.
August 1, 1988.
[FR Doc. 88–17915 Filed 8–8–88; 8:45 am]
BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts, Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (General Services to the Field Section) to the National Council on the Arts will be held on August 29, 1988, from 8:30 a.m.–8:00 p.m., and on August 30, 1988, from 8:30 a.m.–6:00 p.m., in room M–14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on August 30, 1988, from 4:00 p.m.–6:00 p.m. The topics for discussion will include guidelines and policy issues.

The remaining sessions of this meeting on August 29, 1988, from 8:30 a.m.–8:00 p.m., and on August 30, 1988, from 8:30 a.m.–4:00 p.m., and for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

August 2, 1988.
Yvonne M. Sabine,
Director, Council and Panel Operations, National Endowment for the Arts.
[FR Doc. 88–17877 Filed 8–8–88; 8:45 am]
BILLING CODE 7537–01–M

National Endowment for the Arts, Inter-Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Presenting Organizations Section) to the National Council on the Arts will be held on August 22, 1988, from 9:00 a.m.–7:30 p.m., and on August 23–26, 1988, from 8:30 a.m.–7:00 p.m., and on August 27, 1988, from 8:30 a.m.–5:00 p.m. in room M–07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on August 27, 1988, from 9:00 a.m.–1:00 p.m. The topics for discussion will include guidelines and policy issues.

The remaining sessions of this meeting on August 22, 1988, from 9:00 a.m.–7:30 p.m., and on August 23–26, 1988, from 8:30 a.m.–7:00 p.m., and on August 27, 1988, from 8:30 a.m.–9:00 a.m., and on August 27, 1988, from 1:00 p.m.–5:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

August 2, 1988.
Yvonne M. Sabine,
Director, Council and Panel Operations, National Endowment for the Arts.
[FR Doc. 88–17878 Filed 8–8–88; 8:45 am]
BILLING CODE 7537–01–M

National Endowment on the Arts, Museum Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Utilization of Museum Resources Section) to the National Council on the Arts will be held on August 23–25, 1988, from 9:00 a.m.–5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for

financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

August 2, 1988.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 88–17879 Filed 8–8–88; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts, Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Multi-Music Presenters/Solo Recitalists Presenters Section) to the National Council on the Arts will be held on August 24–25, 1988, from 9:00 a.m.–6:00 p.m., and on August 26, 1988, from 9:00 a.m.–5:30 p.m., in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on August 26, 1988, from 3:30 p.m.–5:30 p.m. The topics for discussion will include guidelines and policy issues.

The remaining sessions of this meeting on August 24–25, 1988, from 9:00 a.m.–6:00 p.m., and on August 26, 1988, from 9:00 a.m.–3:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

August 2, 1988.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 88–17880 Filed 8–8–88; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

Southern California Edison Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of amendments to Facility Operating License Nos. NPF–10 and NPF–15 issued to Southern California Edison Company, et al. (the licensee), for operation of the San Onofre Nuclear Generating Station, Units 2 and 3, located in San Diego County, California.

Environmental Assessment

Identification of the Proposed Action

Section 3/4.1.3.4 of the Technical Specifications currently requires the Control Element Assembly (CEA) drop time, from a withdrawn position greater than or equal to 145 inches, to be less than or equal to 3.0 seconds from when electrical power is interrupted to the CEA drive mechanism until the CEA reaches its 90 percent inserted position. This drop time is required to be demonstrated through measurement prior to criticality whenever the reactor vessel head has been removed, following maintenance on the CEA drive mechanisms which could affect drop time, and every 18 months. The proposed change would increase the maximum allowable drop time from 3.0 seconds to 3.2 seconds.

Need for the Proposed Action

Previously each CEA was withdrawn from the core to its full out position and dropped by opening its individual circuit breaker. Beginning with Unit 2 Cycle 4 startup, a new method of measuring CEA drop times was used in which the reactor trip breakers are the point at which power is interrupted to the CEA gripper coils rather than the individual breakers. This new method uses the reactor trip breakers and, therefore, more accurately reflects the operation of the reactor protection system during a scram. During the Unit 2 startup tests, the CEA drop times obtained using the new method were longer than those obtained using the previous method. This has been found to be due to the fact that the circuit dissipating gripper coil stored energy has a longer time constant when tripped by the reactor trip breakers than when tripped by the individual circuit breakers. Unit 3 is currently in a refueling outage and will use the new test method during Cycle 4 startup. Since a review of previous Unit 3 CEA drop time measurements indicated that there is a potential for at least one CEA to fail to meet the 3.0 seconds requirement, the proposed change would increase the specified drop time to 3.2 seconds in order to avoid possible delay of Unit 3 restart.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the Technical Specifications and has concluded that the proposed change provides reasonable assurance that the facility can be operated safely. This change will not alter the impacts of normal operation. The proposed change does not increase the probability or consequences of accidents. There will be no increase in the probability of any accident because the CEA drive mechanisms have not been changed. With respect to the consequences of accidents, the increased drop time is either bounded by previous analyses or is compensated for by penalty factors or design conservatisms. Therefore, the consequences of previously analyzed accidents will not be increased. 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 proposed action would result in no significant adverse radiological environmental impact.

With regard to potential nonradiological impacts, the proposed change to the Technical Specifications involves systems located within the restricted areas as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes

that there are no significant nonradiological environmental impacts associated with the proposed amendments.

The Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on July 8, 1988 (53 FR 25711). No request for hearing or petition for leave to intervene was filed following these notices.

Alternative to the Proposed Action

Since the Commission concluded that there is no significant adverse environmental effect that would result from the proposed action, alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendments. Denial of the request would not reduce environmental impacts of plant operation.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement Related to the Operation of the San Onofre Nuclear Generating Station, Units 2 and 3, dated April 1981.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon this environmental assessment, we conclude that the proposed action will not have a significant adverse effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated June 14, 1988 and the supplementary information provided by letters dated July 13 and July 25, 1988, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the General Library, University of California at Irvine, Irvine, California 92713.

Dated at Rockville, Maryland, this 4th day of August 1988.

For the Nuclear Regulatory Commission.

George W. Knighton,

Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-17940 Filed 8-8-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp., Vermont Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-28 issued to Vermont Yankee Nuclear Power Corporation, (the licensee), for operation of the Vermont Yankee Nuclear Power Station located in Windham County, Vermont.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise surveillance frequency requirements for trip system logic testing and calibration from once every six months to once per operating cycle and require more detailed testing than is required by current Technical Specification.

The proposed action is in accordance with the licensee's application for amendment dated November 30, 1987 with clarifying information provided January 20, 1988 and April 13, 1988.

The Need for the Proposed Action

The proposed change to the TS will be a safety enhancement over the old TS.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the Technical Specifications. The proposed revisions bring the Vermont Yankee TS into closer agreement with the Standard Technical Specifications and require improved testing. The proposed changes do not increase the probability or consequences 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 proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed change to the TS involves systems located within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on January 25, 1988 (53 FR 2115). A petition for leave to intervene was filed following this notice by the State of Vermont; however, following extensive discussion between the technical staffs of the State and the NRC, the State withdrew its hearing request. On June 30, 1988, the Atomic Safety and Licensing Board dismissed the petition to intervene and terminated the proceeding.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in less satisfactory testing.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Vermont Yankee Nuclear Power Station, July, 1972.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated November 30, 1987 and clarifying information provided January 20, 1988 and April 13, 1988

which are available for public inspection at the Commission's Public Document Room, Brooks Memorial Library, 244 Main Street, Brattleboro, Vermont 05301.

Dated at Rockville, Maryland, this 2nd day of August 1988.

For the Nuclear Regulatory Commission.

Daniel G. McDonald,

Acting Director, Project Directorate I-3, Division of Reactor Projects I/II

[FR Doc. 88-17941 Filed 8-8-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-124]

Environmental Assessment and Finding of No Significant Impact Regarding Termination of Facility Operating License No. R-62; Virginia Polytechnic Institute and State University, Argonaut Reactor Facility

The U.S. Nuclear Regulatory Commission (The Commission) is considering issuance of an Order terminating Facility Operating License No. R-62 for Virginia Polytechnic Institute and State University Argonaut Reactor Facility located in Blacksburg, Virginia, in accordance with the application dated July 17, 1986, as supplemented.

Environmental Assessment

Identification of Proposed Action

By application dated July 17, 1986 as supplemented, Virginia Polytechnic Institute requested authorization to decontaminate and dismantle its Argonaut Reactor Facility, to dispose of its component parts in accordance with the proposed dismantling plan, and to terminate Facility Operarting License No. R-62. Following an "Order Authorizing Dismantling of Facility and Disposition of Component Parts," dated October 29, 1986, Virginia Polytechnic Institute completed the dismantlement and submitted a final survey report on April 6, 1987. Region II conducted final surveys during July 1987 through April 1988. These surveys are documented in Region II Inspection Reports Nos. 50-124/87-01 and 50-124/88-01. The staff agrees with the analysis and the conclusion in the Virginia Polytechnic Institute final report, as amended.

Need for Proposed Action

In order to release the facility for unrestricted access and use, Facility Operating License No. R-62 must be terminated.

Environmental Impact of License Termination

The Virginia Polytechnic Institute, indicates that the residual contamination and dose exposures are less than the requirements of Regulatory Guide 1.86, Table I and the maximum exposure of 5 microR/hr above background at one meter. These measurements have been verified by the NRC. The NRC finds that since these criteria have been met there is no significant impact on the environment and the facility can be released for unrestricted used. The area formerly occupied by the reactor will be modified to take advantage of the crane used for the reactor to fabricate and assemble equipment used for high-energy research.

Alternatives to the Proposed Action

Since the reactor and component parts have been dismantled and disposed of in accordance with NRC regulations and guidelines, there is no alternative to termination of Facility Operating License No. R-62.

Agencies and Persons Consulted

Personnel from the Radiological Site Assessment Program, Oak Ridge Associated Universities (an NRC contractor) assisted Region II in the conduct of the Termination Survey for the Virginia Polytechnic Institute Argonaut Reactor Facility.

Finding of No Significant Impact

The Commission has determined not to prepare an Environment Impact Statement for the proposed action. Based upon the foregoing Environmental Assessment, the Commission has concluded that the issuance of the Order will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the application for termination of Facility Operating License No. R-62, dated July 17, 1986, as supplemented. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland this 2nd day of August 1988.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Acting Director, Standardization and Non-Power, Reactor Project Directorate, Division of Reactor Projects III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-17942 Filed 8-8-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-341]

Detroit Edison Co. and Wolverine Power Supply Cooperative, Inc.; Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Facility Operating License No. NPF-43, issued to the Detroit Edison Company and Wolverine Power Supply Cooperative, Inc. (the licensees), which revised the Technical Specifications (TSs) for operation of Fermi-2 located in Monroe County, Michigan. The amendment is effective as of the date of issuance.

The amendment allows continued use of release pathways for which effluent monitoring instrumentation is not operable provided grab samples and analysis and/or flow rate calculations are made at the specified frequencies.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings, as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing in connection with this action was published in the **Federal Register** on May 13, 1988 (53 FR 17130). No request for hearing or petition to intervene was filed following this notice.

Also in connection with this action, the Commission prepared an Environmental Assessment and Finding of No Significant Impact which was published in the **Federal Register** on July 26, 1988 at 53 FR 28081.

For further details with respect to this action, see (1) the application for amendment dated March 28, 1988, (2) Amendment No. 24 to License No. NPF-43, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland, this 28th day of July, 1988.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Project Manager, Project Directorate III-1, Division of Reactor Projects—III, IV, V & Special Projects.

[FR Doc. 88-17943 Filed 8-8-88; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, 450 Fifth Street, NW., Washington, DC 20549.

New Form N-17f-1, File 270-316, Form N-17f-2, File 270-317, Form ADV-E, File 270-318.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for OMB approval proposed forms N-17f-1 and N-17f-2 under the Investment Company Act of 1940 ("1940 Act") and form ADV-E under the Investment Advisers Act of 1940 ("Advisers Act").

Form N-17f-1 is the cover sheet for accountant examination certificates filed, pursuant to rule 17f-1 under the 1940 Act, by management investment companies maintaining securities or other investments with companies that are members of a national securities exchange. There are approximately 23 registrants currently filing accountant examination certificates. The time necessary for investment companies to comply with the proposed form's requirements would be less than three minutes.

Form N-17f-2 is the cover sheet for accountant examination certificates filed, pursuant to rule 17f-2 under the 1940 Act, by management investment companies maintaining custody of securities or other investments. There are approximately 115 registrants currently filing accountant examination certificates. The time necessary for investment companies to comply with the proposed form's requirements would be less than three minutes.

Form ADV-E is the cover sheet for accountant examination certificates filed, pursuant to rule 206(4)-2 under the Advisers Act, by investment advisers retaining custody of client securities or funds. There are approximately 1200 registrants currently filing accountant examination certificates. The time necessary for investment advisers to comply with the proposed form's requirements would be less than three minutes.

General comments should be submitted to OMB Desk Officer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503.

Direct any comments concerning the accuracy of the estimated average burden hours for compliance to Robert Neal at the above address and to Kenneth A. Fogash, Deputy Executive Director, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-6004.

Jonathan G. Katz,

Secretary.

August 2, 1988.

[FR Doc. 88-17921 Filed 8-8-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25961; File Nos. SR-Amex-86-19; SR-CBOE-86-15; SR-NYSE-86-20; SR-PSE-86-15; SR-Phlx-86-21]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Chicago Board Options Exchange, Inc.; New York Stock Exchange, Inc.; Pacific Stock Exchange, Inc.; Philadelphia Stock Exchange, Inc.; Order Partially Approving Proposed Rule Changes

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 [2] thereunder, the American ("Amex"), New York ("NYSE"), Pacific ("PSE"), and Philadelphia ("Phlx") Stock Exchanges, and the Chicago Board Options Exchange ("CBOE") (collectively, the "Exchanges"), submitted to the Securities and Exchange Commission ("Commission" or "SEC") in 1986 proposed amendments to their rules governing the selection and continuing eligibility of stocks underlying exchange-traded options.

The Exchanges' proposed rule changes were published for comment in Securities Exchange Act Release Nos. 23417 (July 11, 1986), 51 FR 26084 (File No. SR-Amex-86-19), and 23597 (September 5, 1986), 51 FR 32988 (File Nos. SR-CBOE-86-15; SR-NYSE-86-20; SR-PSE-86-15; SR-Phlx-86-21). The Commission did not receive any comment letters relating to the Exchanges' proposals.

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 7 CFR 240.19b-4 (1988).

The Exchanges currently have in place uniform rules governing the initial and continuing eligibility of equity securities underlying standardized options. In order for options to be traded on an individual stock, the stock and its issuer must satisfy on a continuing basis criteria relating to, for example, non-default, net income, number of shareholders, and market price per share. In general, the initial listing standards and the maintenance criteria measure the quality of the issuer and the quality of the market for the underlying security.

In 1986, the Exchanges proposed modifications to their listing and maintenance standards. The proposed amendments, the specific content of which is contained in the above-referenced releases, would ease the Exchanges' listing and maintenance criteria, thereby increasing the number of stocks eligible for options trading. The Commission, pending final action on its proposal to abolish the options allocation system and institute multiple-trading of options [3] on exchange-listed equity securities, has declined to date to approve the Exchanges' proposals.

In the wake of the October 1987 market break, the Exchanges have asked the Commission to approve the portion of their proposals relating to stock price maintenance standards. In particular, the maintenance standards would be amended so that a security would continue to remain eligible for options trading unless its market price per share closed below $5 on the majority of business days during a six-month period. The current maintenance standard is $8.[4]

[3] Standardized equity options on stocks not listed for trading on a national securities exchange may be traded on more that one options exchange. Currently, however, other than a few "grandfathered" options, equity options on stocks listed on a national securities exchange can be traded only on one of the five domestic options exchanges. These options were allocated pursuant to a lottery system administered by the Exchanges. The Commission has published for comment and held hearings on a proposed rule, Rule 19c-5 under the Act, that would require multiple-listing of equity options on exchange-listed stocks. *See* Securities Exchange Act Release No. 24613 (June 18, 1987), 52 FR 23849.

[4] The Amex, CBOE, PSE, and Phlx petitioned the Commission in a letter from Craig R. Carberry, Director, Options Compliance, PSE, to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated April 13, 1988 ("Exchange Petition"). The NYSE, which in File No. SR-NYSE-86-20 originally had proposed to reduce its stock price maintenance standard to $6 rather than $5, has agreed to adopt the uniform $5 standard. May 24, 1988 telephone conversation between David Krell, Vice President for Options, NYSE, and David Underhill, Attorney, Division of Market Regulation, SEC.

In support of their proposal, the Exchanges cited the fact that a number of options that would be required to be delisted due to October market break price declines "remain quite active due to continuing investor interest." [5] The Exchanges also aruged that the continuing availability of options on lower-priced stocks would allow investors to hedge against possible future market disruptions and that lower maintenance standards would not affect the proliferation of strike prices and expiration months because options delisted under the current maintenance criteria would simply be replaced by other options. In addition, the Exchanges noted the "growing realization that lower priced issues significantly contribute to the market mix of exchange option floors." [6] Last, the Exchanges requested that institution of the revised maintenance standards be made retroactive to January 1, 1988.

The Commission has determined to approve the reduction of the Exchanges' stock price maintenance standards from $8 to $5. Specifically, the Commission finds that the proposed rule changes relating to stock price maintenance standards are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular, the requirements of section 6 [7] and the rules and regulations thereunder. In the wake of the October 1987 market break, a number of stocks that previously traded above $8 on a consistent basis now trade in the $5 to $8 range. The Commission believes that reduction of the Exchanges' stock price maintenance standards from $8 to $5 will enable the Exchanges to continue to list a number of equity options that are actively-traded and have significant open interest. This will allow market participants to continue to hedge against future price fluctuations of many widely-held stocks. The Commission also believes that permitting options on these stocks to continue to trade would not compromise the quality of issuer and underlying market trading concerns of the stock maintenance standards.

The Commission has determined not to grant retroactive approval to the Exchanges' proposal. The Commission as a matter of policy does not grant such approval absent special circumstances. In this case, the Commission does not believe that retroactive approval is necessary for the protection of investors or the maintenance of fair and orderly markets. In addition, the Commission staff in May 1988 provided to the Exchanges temporary relief from the current standards pending permanent approval of the reduced stock price minimum.[8]

It therefore is ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule changes are partially approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: August 3, 1988.

[FR Doc. 88-17972 Filed 8-8-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25958; File No. SR-AMEX-88-16]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Trading of Options on Stocks Listed on the American Stock Exchange

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 June 23, 1988 the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" or "Exchange") proposes to amend Rules 175, 900 and 958 by adding subparagraphs 175(c), 900(b)(38–41) and 958 (e) and (f). The amendments are as follows; italics indicates material proposed to be added;

Rule 175

(a)–(b) No change.

(c) *No specialist or his member organization or any member, limited partner, officer, or approved person thereof shall act as an options specialist or function in any capacity involving marketmaking responsibilities in any option as to which the underlying security is a stock in which the specialist is registered as such.*

Rule 900

(a) No change.

(b) (1)–(37) No change.

(b)(38) *Paired Security—The term "Paired Security" means a security which is the subject of securities trading on the Exchange and Exchange option trading.*

(b)(39) *Related Security—For purposes of this Chapter, the term "Related Security" means:*

(i) in the case of an equity option, the stock underlying such option; and

(ii) in the case of a stock, the option overlying such stock.

(b)(40) *Designated Options Area—The term "Designated Option Area" means that area of the Exchange trading floor in which an option on a Paired Security is traded. Such Designated Options Area shall be physically separated from the Designated Stock Area.*

(b)(41) *Designated Stock Area—The term "Designated Stock Area" means that area of the Exchange trading floor in which the stock of a Paired Security is traded. Such Designated Stock Area shall be physically separated from the Designated Options Area.*

Rule 958

(a)–(d) No change.

(e) *No equity specialist, odd-lot dealer or NASDAQ marketmaker may act as a Registered Options Trader in a class of stock options on a stock in which he is registered in the primary market therefor.*

(f) *No member while acting as a Registered Options Trader if he is also registered as Registered Equity Trader or Registered Equity Marketmaker shall executive a proprietary Exchange option transaction on a Paired Security if during the preceding 60 minutes he has been in the Designated Stock Area where the related security is traded.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory 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

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[5] Exchange Petition, *supra* note 4, at 1.

[6] *Id.* at 2.

[7] 15 U.S.C. 78f (1982).

[8] Specifically, the Commission staff notified the Exchanges that they could continue to trade for three months options on any stock which as of May 20, 1988 was not in compliance with the minimum price standard but which closed at or above $8 on May 20. Absent special circumstances, the Exchanges were required to delist options overlying stocks which were not in compliance with the minimum price standard and which closed below $8 on May 20.

[9] 15 U.S.C. 78s(b)(2) (1982).

places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The general purpose of the proposed rule changes is to permit the Exchange to trade options on stocks it lists ("Paired Securities"). With the expansion of its trading facility, specifically the addition of a separate room, the Amex is in a position to trade stocks and options thereon in physically separated locations. The proposed rule changes specify that such trading shall take place at different trading locations and provide the safeguards necessary to prevent abuses which could result from the trading of stocks and related options in physical proximity to each other.

1. *Rules 175(c) and 958(e).* In order to minimize regulatory concerns that might arise from the same member or member organization acting as a marketmaker in both the option and the underlying stock, the Exchange will prohibit a specialist, odd-lot dealer or NASDAQ marketmaker in the stock from acting as a registered options trader in connection with the option thereon.

2. *Rule 900(b) (38) and (39).* The Exchange has added definitions of the terms "Related Security" and "Paired Security" for clarification purposes.

3. *Rules 900(b) (40) and (41).* Trading in options on Amex listed stocks on the Exchange shall take place in an area of the trading floor distinct and physically separated from the area in which trading in the underlying stock shall take place. These areas will be known as the "Designated Options Area" and "Designated Stock Area," respectively, and are so defined in Rules 900(b) (40) and (41).

4. *Rule 958(f).* The Exchange is imposing a restriction on proprietary trading in Paired Securities by a registered options trader who is also registered as an equity trader or marketmaker to safeguard against any potential abuse of information which might result from his presence in the crowd trading the underlying stock. Such registered options trader would be prohibited from executing such a transaction in a related option within one hour of his having been in the Designated Stock Area. In this way any advantage due to a traders presence in the stock crowd would be eliminated prior to the time he could execute an options transaction.

The Amex believes the proposed rule changes are consistent with the requirements of the Securities Exchange Act of 1934 ("1934 Act") and the rules and regulations thereunder applicable to the Exchange in that the proposed rule changes provide a regulatory framework for options trading on Amex listed stocks and safeguards against potential abuses. Therefore, the Amex believes the proposed rule changes are consistent with section 6(b)(5) of the Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Options Committee, a committee of the Amex Board of Governors comprised of members and representatives of member firms, has endorsed the proposed ruyle change.

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it funds 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. 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 30, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Jonathan G. Katz,

Secretary.

August 2, 1988.

[FR Doc. 88-17974 Filed 8-8-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25959; File No. SR-CBOE-88-15]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Market-Maker Obligations To Not To Exceed Certain Bid-Ask Differentials.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 27, 1988 the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II anid III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Obligations of Market-Makers

Rule 8.7 (a) No change.

(b) No change.

(i) No change.

(ii) No change.

(iii) No change.

(iv) To price options contracts fairly by, among other things, bidding and/or offering so as to create differences of no more than ¼ of $1 between the bid and offer for each option contract for which the bid is $1 or less, *no more than ⅜ of $1 where the bid is more than $1 but does not exceed $5*, no more than ½ of

[1] 17 CFR 200.30-3(1)(12) (1986).

$1 where the bid is more than *$5* [$1] but does not exceed $10, no more than ¾ of $1 where the bid is more than $10 but does not exceed $20 and no more than $1 where the bid is more than $20, provided that the Floor Procedure Committee may establish differences other than the above for one or more options series. The bid-ask differentials stated above shall not apply to option series which are *five* [ten] or more points in the money. For these series the bid-ask differentials may be as wide as the quotation on the primary market of the underlying security. During the last week of trading preceding expiration, the bid-ask differential on expiring in-the-money options may be as wide as the quotation in the primary market of the underlying security.

(c) No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, or 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 proposed rule change would narrow the maximum allowed difference between a bid and offer for an options contract for which the bid is more than $1 but less than $5.

For example, Rule 8.7 (b)(vi) currently states that if an option is bid at between $1 and $10, a market-maker must bid or offer so as to create a bid-ask differential of no more than ½ of $1. Thus, if the bid for a particular option series is 4¼, a market-maker seeking to initiate an offer can bid or offer at any price provided the bid-ask differential does not exceed ½ of $1 (e.g. 4⅛—4⅝ or 4¼—4¾ or 4⅜—5⅛).

The Equity Floor Procedures, Index Floor Procedures and Market Performance Committees have recommended that the maximum allowable bid-ask differential be narrowed in lower priced options with premiums of between $1 and $5. Such options are favored by a significant number of public investors. The narrowing will result in improved price continuity and tighter and more liquid markets in such lower priced options.

The Exchange belives that the proposed rule change is consistent with the provisions of the Act and the rules and regulations thereunder. In particular, the proposal is consistent with section 6(b)(5) of the Act in that it is designed to make the market more efficient and to protect investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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. 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 30, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Jonathan G. Katz,

Secretary.

August 2, 1988.

[FR Doc. 88-17975 Filed 8-8-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25962; File No. SR-NASD-88-22]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

On June 17, 1988, the National Association of Securities Dealers, Inc ("NASD") submitted a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1) and Rule 19b-4 thereunder, to amend section 66 of the Uniform Practice Code to require syndicate managers of public offerings to provide members of underwriting syndicates with itemized statements detailing the expenses incurred by the syndicate. Notice of the proposed rule change, together with its terms of substance was given by the issuance of a Commission release (Securities Exchange Act Release No. 25840, June 23, 1988) and by publication in the **Federal Register** (53 FR 24538, June 29, 1988). No comment letters were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and in particular the requirements of section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned rule change be, and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,

Secretary.

Dated: August 3, 1988.

[FR Doc. 88-17976 Filed 8-8-88; 8:45 am]

BILLING CODE 8010-01-M

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[1] 17 CFR 200.30-3(a)(12) (1986).

[Release No. 34-25960; File No. SR-PHLX-88-23]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Fees Associated With Options on Over-the-Counter Stocks

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78*s*(b)(1), notice is hereby given that on July 18, 1988, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described herein. The proposed rule change is effective upon filing with the Commission pursuant to section 19(b)(3)(A) of the Act because it involves "establishing or changing a due, fee, or other charge." The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The PHLX has a continuing interest in listing new equity options, including options on over-the-counter ("OTC") stocks, which will develop active and liquid trading markets. The Exchange previously adopted a policy of encouraging options specialists to make suggestions of possible OTC stocks that might be appropriate for options trading by giving them preferential consideration in the event their suggested options were listed by the Exchange. Because the Exchange researches thoroughly each specialist's suggestion, this option selection process has become very costly and time-consuming. In order to discourage frivolous option feasibility requests by specialists and to help cover the expenses associated with each review,[1] the Exchange has determined to charge a $100 fee for each OTC stock that a specialist requests to be reviewed for potential options trading. Because the vast majority of the option feasibility requests are for OTC stocks, the $100 fee is applicable only to OTC stocks.

Additionally, the Exchange proposes a $5,000 fee to be charged the specialist who is ultimately awarded specialist privileges in any option on an OTC stock. Accordingly to the Exchange, legal costs incurred to ensure compliance with state blue sky laws and research and operating costs associated with the introduction of an option could amount to as much as $15,000 or more. The $5,000 fee will help defray some of these costs. As with the $100 fee for options feasibility reviews, the $5,000 fee is applicable only to OTC stocks.

The PHLX does not believe the proposed rule change will impose any burden on competition. According to the Exchange, the fees will not have an adverse impact on a specialist firm or the manner in which it conducts business because they are small in size and they apply to all options specalists on the Exchange. In particular, the Exchange does not believe the $5,000 fee will discourage any firm from seeking specialist privilege in options on OTC stocks.

As the foregoing rule change is concerned solely with the administration of the self-regulatory organization, it has become effective immediately pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. 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 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 Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 30, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Jonathan G. Katz,

Secretary.

August 2, 1988.

[FR Doc. 88-17977 Filed 8-8-88; 8:45 am]

BILLING CODE 8010-01-M

[1] Each review involves, among other things, determining whether the stock meets the eligibility criteria for underlying securities, as set forth in PHLX Rule 1009.

[2] 17 CFR 200.30-3(a)(12) (1986).

DEPARTMENT OF STATE

[Public Notice CM-8/12067]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea, Working Group on the Carriage of Dangerous Goods; Meeting

The Working Group on the Carriage of Dangerous Goods of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on August 25, 1988 at 9:30 a.m. in Room 2415 at Coast Guard Headquarters, 2100 2nd Street SW., Washington, DC 20593.

The purpose of this meeting is to discuss the upcoming International Maritime Organization (IMO) Forty-first Session of the Subcommittee on the Carriage of Dangerous Goods and associated agenda items—

—The International Maritime Dangerous Goods (IMDG) Code:
  —Amendments to the IMDG Code,
  —Implementation of the IMDG Code,
  —Carriage of dangerous goods on short sea voyages,
  —Revision of Class 4—Classes 4.1, 4.2, and 4.3,
  —Revision of Class 2—Gases, and
  —Revision of Class 5.2—Organic Peroxides.
—Amendments to the Emergency Procedures for Ships Carrying Dangerous Goods (EmS) and the Medical First Aid Guide for Use in Accidents Involving Dangerous Goods (MFAG).
—Intermediate bulk containers (IBCs) for dangerous goods.
—Portable tanks and road tank vehicles for dangerous goods.
—Inclusion of provisions to cover the marine pollution aspects in the IMDG Code.
—Revision of the list of substances annexed to the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973.
—Safety aspects of section 2 on search and recovery of packaged goods lost at sea of the Manual on Chemical Pollution.

—Requirements for the carriage of irradiated nuclear fuel in purpose-built and non-purpose-built ships.
—Development of guidelines to ensure the reporting to the Organization of incidents involving dangerous goods on board ship or in a port area.
—Revision of MSC/Circ. 360/Rev. 1.
—Relations with other organizations.
—Carriage of dangerous goods on vehicle decks of passenger ships.
—Any other business.

Members of the public may attend up to the seating capacity of the room. For further information contact Lieutenant Commander Phillip C. Olenik, U.S. Coast Guard Headquarters (G–MTH–1), 2100 2nd Street SW., Washington, DC 20593. Telephone: (202) 267–1577.

Date: July 28, 1988.

Thomas J. Wajda,

Chairman, Shipping Coordinating Committee.

[FR Doc. 88–17881 Filed 8–8–88; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC No. 121–XX]

Proposed Advisory Circular on Training on Protective Breathing Equipment and Fire Control

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on proposed Advisory Circular (AC) 121–XX, Training on Protective Breathing Equipment and Fire Control.

SUMMARY: Proposed AC 121–XX is intended to provide information regarding crewmember training on protective breathing equipment activation and fire retardant reaction with fire. The AC provides specific information regarding a recommended training curriculum and provides examples of classroom activities and methods of simulation.

DATE: Comments must be received on or before September 8, 1988.

ADDRESS: Send all comments and request for copies of the proposed AC to: Federal Aviation Administration (Attention: AFS–224), Office of Flight Standards, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Donell Pollard (AFS–224) at the above address; telephone (202) 267–8094 (7:30 a.m. till 3:30 p.m.).

SUPPLEMENTARY INFORMATION: The guidance material contained in this AC provides guidance regarding Amendment 121–193 (52 FR 20950; June 3, 1987) which amends FAR Section 121.417.

Issued in Washington, DC, on July 26, 1988.

D.C. Beaudette,

Acting Director of Flight Standards.

[FR Doc. 88–17873 Filed 8–8–88; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Carver and Hennepin Counties, MN

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 Carver and Hennepin Counties, Minnesota.

FOR FURTHER INFORMATION CONTACT: Alan J. Friesen, District Engineer, Federal Highway Administration, Suite 490, Metro Square Building, St. Paul, Minnesota 55101, Telephone: (612) 290–3236.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration, in cooperation with the Minnesota Department of Transportation (Mn/DOT), will prepare an Environmental Impact Statement (EIS) on a proposal to improve U.S. Highway 212, between Cologne, Minnesota in Carver County and the Jct. of I–494 in Eden Prairie, Hennepin County. The length of the proposed project is approximately 17 miles depending on the alternatives selected.

A draft Environmental Impact Statement (DEIS) was prepared in 1974 and is not considered valid because of additional land development in the corridor and changes in the environmental rules and regulations. A scoping document was prepared and circulated in February 1980 and a Notice of Intent to prepare a DEIS was published in the **Federal Register** on January 31, 1980.

Scoping meetings were held in November and December 1979. The project became inactive in 1981 and was reactivated in August 1983. Because of this delay, a draft study outline was prepared and circulated for comments in January 1986. A public meeting was held on February 26, 1986 and a comment period for review and to receive mail-in comments extended from February 10, 1986 through March 12, 1986. A final study outline providing information about the project including potential alternatives and their impacts was prepared and distributed to interested parties and agencies in June 1986.

As a result of these meetings and additional public involvement, the proposed alternatives from the original scoping document were retained and will be studied in the DEIS. No additional formal scoping meetings are anticipated.

A public hearing on the Draft Environmental Impact Statement will be held. The draft EIS will be made available for public and agency review and comment prior to the public hearing.

The proposed facility will be a four lane divided at-grade expressway between Cologne, Minnesota and the proposed intersection with County Road 140 in Carver County. Between County Road 140 in Carver County and I–494 in Eden Prairie, Hennepin County, it will be proposed as a divided freeway facility.

In addition to the no-build alternative and the transportation system management alternative, location alternatives will be discussed in detail in the draft EIS. These will be identified as the Residential, Mitchell Lake, and System "D" alternatives between I–494 and County Road 4 in Eden Prairie, and the North and South Lake Riley alternatives between County Road 4 and County Road 17 near Chaska. West of County Road 17 to County Road 147, only one new alignment is proposed. West of County Road 147 to Cologne, new T.H. 212 will follow existing T.H. 212 with only minor alignment shifts. Other alternatives were dismissed during the scoping process and will only be briefly discussed in the draft EIS.

To ensure that the full range of issues related to this proposed action are addressed and that 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.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program.)

Issued on July 27, 1988.

Alan Friesen,

District Engineer, St. Paul, Minnesota.

[FR Doc. 88–17932 Filed 8–8–88; 8:45 am]

BILLING CODE 4910–22–M

Maritime Administration

Inventory of U.S.-Flag Launch Barges

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Inventory of Launch Barges, reported as of August 4, 1988.

SUMMARY: Pursuant to Section 1(b)(3) of Pub. L. No. 100–329, enacted June 7, 1988, the following updated inventory of U.S.-flag launch barges that have launch capacity of less than 12,000 long tons and are qualified to engage in the coastwise trade, reported as of August 4, 1988, is being published. Also being published are names and addresses of the persons to whom inquiries concerning such vessels may be made. The inventory will be updated and republished periodically.

EFFECTIVE DATE: August 8, 1988.

FOR FURTHER INFORMATION CONTACT: Ronald Poulsen, Office of the Maritime Administrator, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: An initial inventory of U.S.-flag launch barges reported as of March 2, 1988 was published in the June 27, 1988 **Federal Register**, together with a separate listing of barges owned by Crowley Maritime Corporation that were represented to be readily susceptible of conversion to launch barge use. Comments were invited on the completeness and accuracy of the March 2, 1988 inventory.

Comments were received from Crowley Maritime Corporation, Exxon Company, USA and David P. Stang, attorney on behalf of McDermott Marine Construction Company.

Crowley and Mr. Stang indicated that the listing included some barges with a launch capacity of greater than 12,000 long tons and some that are not coastwise-qualified, noting that the statutory mandate addresses only launch barges of less than 12,000 long tons that are qualified to engage in the coastwise trade. The barges in question were included in the initial inventory for informational purposes because it was believed useful to have generally available a listing of all known U.S.-flag launch barges. That objective having been accomplished and no additional entries having been brought to our attention, the current inventory reflects only barges that meet the foregoing statutory criteria.

Exxon also indicated that the inventory should be limited to barges with a launch capacity of less than 12,000 long tons, but that barges having a capacity greater than 12,000 long tons could be included in an information list that might also include barges which could be U.S.-flagged in the future. Given the statutory mandate and its underlying purpose, the latter suggestion would appear not to serve a useful purpose and has not been incorporated.

Crowley indicated that its barges, which are readily adaptable to launch barge service, should be included in the inventory and not listed separately. Exxon and Mr. Stang objected to including barges in the inventory which are not presently configured as launch barges because such vessels would require extensive modifications and, according to Exxon, "The Maritime Administration would be exceeding its statutory authority under Section 27 of the Merchant Marine Act, 1920 by including vessels which are not presently qualfiied to transport platform jackets."

It has been decided to include the Crowley barges in the inventory: Without passing judgment on either Crowley's representation that those barges can easily be reconfigured or the opponents' representation that extensive modifications would be required, the fact is that the statutory purpose of the inventory is to provide a source from which potential users can determine the "availability" of coastwise-qualified launch barges "of lesser capacity." As noted in the report of the Senate Commerce Committee—

> Potential users have the burden of consulting the list and making inquiries to determine whether a launch barge is "available." The Committee intends that a launch barge of lesser capacity not be deemed to be "available," unless it has been included on the list and is available to perform the transport within the time requirements of the inquiring user. * * * *
>
> S. Rep. No. 100–327, 100th Cong., 2d Sess. 8 (1988).

In our view, that statement militates strongly in favor of including the Crowley coastwise-qualified barges in the inventory, leaving the question of their "availability" to marketplace dictates of the time required for conversion to launch-barge configuration and the potential users' own time requirements.

Accordingly, an updated inventory, as of August 4, 1988, is set forth below. Inquiries concerning "availability" may be addressed as follows:

Babcock & Wilcox:
Fred Baldwin, Domestic Offshore and Fabrication Operations, McDermott, Inc., 1010 Common Street, New Orleans, LA 70160, 504/587–4411

Brown & Root, Inc.
B.E. Stallworth, Executive Vice President, Marine Operations, 4100 Clinton Drive, Box 3, Houston, TX 77001, 713/676–3011

Crowley Maritime Corporation
D.R. Lutz, General Manager, Crowley Constructions, Inc., Berth 22, Pier C, Long Beach, CA 90802, 213/432–6918

MWB, Inc.
1225 North Loop West, Suite 1110, Houston, TX 77008

Offshore Pipelines, Inc.
Thurman Lauret, 14035B Industrial Road, Houston, TX 77015, 713/451–2900.

Approved:

James E. Saari,

Secretary, Maritime Administration.

BILLING CODE 4910-81-M

REPORTED COASTWISE-QUALIFIED LAUNCH BARGES
WITH LAUNCH CAPACITY LESS THAN 12,000 LONG TONS

VESSEL NAME	OWNER	BUILT	LENGTH (FT.)	BEAM (FT.)	DEPTH (FT.)	REPORTED GRT ($T.^3$)	REPORTED DWT (L.T.)	APPROX LAUNCH CAPACITY (L.T.)	VOLUME ($FT.^3$)	ESTIMATED FULL LOAD DISPLACE (L.T.)	RATIO DISPLACE/ LAUNCH CAP.
MWB-403	MWB, INC	1979	400	105	25	9,561	17,954	6,300	1,050,000	23,718	3.8
OCEAN LAUNCHER	OFFSHORE PIPELINES, INC.	1966	380	100	"	8,581	12,260	8,000	950,000	21,714	3.7
MCDERMOTT OCEANIC NO. 91*	BABCOCK & WILCOX	1964	402	90	22	6,718	6,600	4,500	795,960	18,193	4.0
INTERMAC 404*	BABCOCK & WILCOX	1976	300	"	20	3,309	8,000	4,200	540,000	12,343	4.0
MCDERMOTT TIDELANDS 021*	BABCOCK & WILCOX	1980	240	72	17	2,180	4,700	2,200	293,760	6,715	2.5
CORDOVA	CROWLEY	1969	400	76	20	5,051	8,090	4,900	531,615	10,367	2.1
JUNEAU	"	1970	"	"	"	"	"	"	"	"	"

* COASTWISE QUALIFIED, BUT PRESENTLY RESTRICTED TO PROPRIETARY USE UNDER SECTION 27A OF THE MERCHANT MARINE ACT, 1920 (46 APP. U.S.C. SECTION 883-1).

REPORTED COASTWISE-QUALIFIED LAUNCH BARGES
WITH LAUNCH CAPACITY LESS THAN 12,000 LONG TONS

VESSEL NAME	OWNER	BUILT	LENGTH (FT.)	BEAM (FT.)	DEPTH (FT.)	REPORTED GRT ($T.^3$)	REPORTED DWT (L.T.)	APPROX LAUNCH CAPACITY (L.T.)	VOLUME ($FT.^3$)	ESTIMATED FULL LOAD DISPLACE (L.T.)	RATIO DISPLACE/ LAUNCH CAP.
KENAI	CROWLEY	1968	400	76	20	5,051	8,090	4,900	531,615	10,367	2.1
KETCHIKAN	"	1970	"	"	"	"	"	"	"	"	"
KODIAK	"	1965	"	"	"	"	"	"	"	"	"
MCKINLEY	"	1969	"	"	"	"	"	"	"	"	"
NIKISKI	"	1968	"	"	"	"	"	"	"	"	"
PALMER	"	"	"	"	"	"	"	"	"	"	"
MALOLO	"	"	"	"	"	"	"	"	"	"	"
ISLA BONITA	"	1974	"	99	"	6,643	11,290	6,600	705,810	13,732	"
ISLA DEL SOL	"	"	"	"	"	"	"	"	"	"	"
ST. THOMAS	"	1970	"	"	"	"	"	"	"	"	"
BARGE 400	"	"	"	"	"	"	"	"	"	"	"
BARGE 406	"	1974	"	"	"	"	"	"	"	"	"
BARGE 407	"	"	"	"	"	"	"	"	"	"	"
BARGE 408	"	"	"	"	"	"	"	"	"	"	"
BARGE 409	"	"	"	"	"	"	"	"	"	"	"

REPORTED COASTWISE-QUALIFIED LAUNCH BARGES
WITH LAUNCH CAPACITY LESS THAN 12,000 LONG TONS

VESSEL NAME	OWNER	BUILT	LENGTH (FT.)	BEAM (FT.)	DEPTH (FT.)	REPORTED GRT ($T.^3$)	REPORTED DWT (L.T.)	APPROX LAUNCH CAPACITY (L.T.)	VOLUME ($FT.^3$)	ESTIMATED FULL LOAD DISPLACE (L.T.)	RATIO DISPLACE/ LAUNCH CAP.
BARGE 410	CROWLEY	1974	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
BARGE 411	"	"	"	"	"	"	"	"	"	"	"
BARGE 414	"	1975	"	"	"	"	"	"	"	"	"
BARGE 415	"	"	"	"	"	"	"	"	"	"	"
BARGE 416	"	"	"	"	"	"	"	"	"	"	"
BARGE 417	"	"	"	"	"	"	"	"	"	"	"
BARGE 419	"	"	"	"	"	"	"	"	"	"	"
BARGE 420	"	"	"	"	"	"	"	"	"	"	"
LANAI	"	1976	"	"	25	8,914	15,178	8,000	864,080	18,418	2.3
MOLOKAI	"	"	"	"	"	"	"	"	"	"	"
BARGE 450-2	"	"	"	"	"	"	"	"	"	"	"
BARGE 450-3	"	"	"	"	"	"	"	"	"	"	"
BARGE 450-4	"	"	"	"	"	"	"	"	"	"	"

REPORTED COASTWISE-QUALIFIED LAUNCH BARGES
WITH LAUNCH CAPACITY LESS THAN 12,000 LONG TONS

VESSEL NAME	OWNER	BUILT	LENGTH (FT.)	BEAM (FT.)	DEPTH (FT.)	REPORTED GRT ($T.^3$)	REPORTED DWT (L.T.)	APPROX LAUNCH CAPACITY (L.T.)	VOLUME ($FT.^3$)	ESTIMATED FULL LOAD DISPLACE (L.T.)	RATIO DISPLACE/ LAUNCH CAP.
BARGE 450-6	CROWLEY	1981	400	99	25	8,914	15,178	8,000	864,080	18,418	2.3
BARGE 450-7	"	"	"	"	"	"	"	"	"	"	"
BARGE 450-8	"	"	"	"	"	"	"	"	"	"	"
BARGE 450-9	"	"	"	"	"	"	"	"	"	"	"
BARGE 450-10	"	"	"	"	"	"	"	"	"	"	"
BARGE 450-11	"	1982	"	"	"	"	"	"	"	"	"
BARGE 500-1	"	"	"	"	20	7,171	11,824	8,500	753,270	14,770	1.97
BARGE 500-2	"	1983	"	"	"	"	"	"	"	"	"
BARGE 500-3	"	"	"	"	"	"	"	"	"	"	"
BARGE 500-4	"	"	"	"	"	"	"	"	"	"	"

[FR Doc. 88-18116 Filed 8-8-88; 9:26 am]
BILLING CODE 4910-81-C

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: August 3, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0954.
Form Number: 1120–ND.
Type of Review: Revision.
Title: Return for Nuclear Decommissioning Funds and Certain Related Persons.
Description: IRS uses Form 1120–ND to monitor the activities of nuclear decommissioning funds and to collect the tax on income under section 468A as well as taxes on self-dealing by disqualified persons.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 100.
Estimated Burden Hours Per Response: 2 hours and 22 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 10,337 hours.

OMB Number: 1545–1004.
Form Number: 1120 REIT.
Type of Review: Revision.
Title: U.S. Income Tax Return for Real Estate Investment Trusts.
Description: Form 1120–REIT is filed by a corporation, trust, or association electing to be taxed as a REIT in order to report its income and deductions and to compute its tax liability. IRS uses Form 1120–REIT to determine whether the REIT has correctly reported its income, deductions, and tax liability.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 250.
Estimated Burden Hours Per Response: 9 hours.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 2,249 hours.

OMB Number: 1545–1030.
Form Number: None.
Type of Review: Revision.
Title: Opinion Survey of Taxpayers Contacting IRS Taxpayer Service for 1989.
Description: The data collected will be used to determine if the IRS meets the taxpayer's needs in providing assistance on tax related matters, to plan for short and long range assistance programs, and to assess the impact of taxpayer assistance on voluntary compliance. The sample will be selected from taxpayers who have requested assistance from the IRS.
Respondents: Individuals or households.
Estimated Number of Respondents: 7,200.
Estimated Burden Hours Per Response: 20 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 2,400 hours.
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.

[FR Doc. 88–17968 Filed 8–8–88; 8:45 am]
BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 153
Tuesday, August 9, 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).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The meeting was held at the offices of the Farm Credit Administration in McLean, Virginia, on July 29, 1988, from 6:50 p.m. until such time as the Board concluded its business.

FOR FURTHER INFORMATION CONTACT: David A. Hill, Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, (703) 883–4003, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board was closed to the public. The matter considered at the meeting was:

Closed Session [1]

1. Update regarding the Federal Land Bank of Jackson, in receivership, and the Federal Land Bank Association, in receivership.

Dated: August 4, 1988.

David A Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 88–17996 Filed 8–5–88; 9:50 am]

BILLING CODE 6705–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration; Correction of Sunshine Act Meeting

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on July 29, 1988 (53 FR 28331) of the regular meeting of the Farm Credit Administration Board (Board) scheduled for August 2, 1988. This notice is to revise the agenda for that meeting to add an item in a closed session.

FOR FURTHER INFORMATION CONTACT: David A. Hill, Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, (703) 883–4003 TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of the meeting of the Board were open to the public (limited space available), and parts of the meeting were closed to the public. The agenda for Tuesday, August 2, is revised to include the following item in the closed session:

Closed Session [1]

1. Update regarding Federal Land Bank of Jackson, in receivership, and Federal Land Bank Association of Jackson, in receivership.

Dated: August 4, 1988.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 88–17995 Filed 8–5–88; 9:50 am]

BILLING CODE 6705–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration; Correction of Sunshine Act Meeting

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on July 27, 1988 (53 FR 28331) of the special meeting of the Farm Credit Administration Board (Board) scheduled for July 29, 1988. This notice is to revise the agenda for that meeting to add an item to the closed session.

FOR FURTHER INFORMATION CONTACT: David A. Hill, Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, (703) 883–4003, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of the meeting of the Board were open to the public (limited space available), and parts of the meeting were closed to the public. The agenda for Friday, July 29, is revised to include the following item in the closed session:

Closed session [1]

7. Update regarding Federal Land Bank of Jackson, in receivership, and Federal Land Bank Association of Jackson, in receivership.

Dated: August 4, 1988.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 88–17994 Filed 8–5–88; 9:50 am]

BILLING CODE 6705–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of August 8, 15, 22, and 29, 1988.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of August 8

Tuesday, August 9

10:00 a.m.
Briefing on Status of Agreements with OSHA, EPA and FEMA Concerning Jurisdiction Over Non-Radiological Hazards (Public Meeting).

2:00 p.m.
Briefing on Key Licensing Issues Associated with DOE Sponsored Advanced Reactor Designs (Public Meeting).

Wednesday, August 10

10:00 a.m.
Briefing on Current Status of Nuclear Materials Transportation (Public Meeting).

Thursday, August 11

10:00 a.m.
Briefing on Status, Results, and Implementation of B&W Reassessment (Public Meeting).

2:00 p.m.
Briefing on Standardization of Advanced Reactor Designs (Public Meeting).

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed).
(a) Final Rule on Emergency Preparedness for Fuel Cycle and other Radioactive Material Licensees (Tentative).

Week of August 15—Tentative

Monday, August 15

2:00 p.m.
Briefing on Center for Nuclear Waste Regulatory Analysis (CNWRA) (Public Meeting).

Tuesday, August 16

2:00 p.m.
Briefing on Maintenance Workshop (Public Meeting).

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed).

[1] Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c)(4), (6), (8) and (9).

[1] Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c)(4), (6), (8) and (9).

Week of August 22—Tentative

There are no meetings scheduled for the Week of August 22.

Week of August 29—Tentative

There are no meetings scheduled for the Week of August 29.

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING) (301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 492–1661.

William M. Hill, Jr.,

Office of the Secretary.

August 4, 1988.

[FR Doc. 88–18050 Filed 8–5–88; 3:29 pm]

BILLING CODE 7590–01–M

UNITED STATES INSTITUTE OF PEACE

TIME AND DATE: 4:00–7:00 p.m., Thursday, August 11, 1988.

PLACE: The University Club of Washington, 2nd Floor, 1135 16th Street, NW., Washington, DC.

STATUS: Open.

PURPOSE AND AGENDA: First of a Public Workshop series scheduled by the growing United States Institute of Peace. "The Sarajevo Fallacy" will address basic questions and fundamental issues of causes of war, deterrence, arms control, and special problems of democracies in waging peace. Patrick Glynn will lead the discussion of his 1987 "Sarajevo Fallacy" article; Commentators are Dr. J. David Singer, Dr. Charles Fairbanks, Mr. Leon Weiseltier, and Col. Harry Summers (USA Ret.).

CONTACT: Ms. Aileen C. Hefferren, Telephone (202) 457–1700.

Dated: August 1, 1988.

Samuel. W. Lewis,

President.

[FR Doc. 88–18078 Filed 8–5–88; 3:52 pm]

BILLING CODE 3155–01–M

Corrections

Federal Register
Vol. 53, No. 153
Tuesday, August 9, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

Children's Hospital-Boston et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

Correction

In notice document 88-17149 appearing on page 28679 in the issue of Friday, July 29, 1988, make the following correction:

In the first column, in the first paragraph, in the second line, "section 7(c)" should read "section 6(c)".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

Northwestern University et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

Correction

In notice document 88-17150 beginning on page 28679 in the issue of Friday, July 29, 1988, make the following correction:

On page 28679, in the second column, in the second paragraph, in the fourth line, "VG70-259SE" should read "VG70-250SE".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Part 327

Handicapped Special Studies Program

Correction

In rule document 88-16927 beginning on page 28350 in the issue of Wednesday, July 27, 1988, make the following correction:

§ 327.40 [Corrected]

On page 28351, in the third column, in § 327.40(b), in the fourth line, "agencies, others" should read "agencies, and others".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3423-2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

Correction

In rule document 88-17335 beginning on page 29038 in the issue of Tuesday, August 2, 1988, make the following correction:

PART 261—[CORRECTED]

On page 29045, in the first column, in the first line,

"Appendix X" should read

"Appendix IX".

BILLING CODE 1505-01-D

federal register

Tuesday
August 9, 1988

Part II

Administrative Committee of the Federal Register

1 CFR Part 2 et al.

Updates and Changes to Publication Procedures; Proposed Rule

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

1 CFR Parts 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21 and 22

Updates and Changes to Publication Procedures; Proposed Rule

AGENCY: Administrative Committee of the Federal Register.

ACTION: Proposed rule.

SUMMARY: The Administrative Committee of the Federal Register (ACFR) proposes to update its regulations for the Office of the Federal Register publication system to clarify certain policies and reflect current procedures. These proposed amendments concern availability of Office of the Federal Register publications, changes to regulations by court order or Act of Congress, procedure and timing of regular schedule, reinstatement of expired regulations, effective dates and time periods, and technical amendments. This action does not represent a change in policy or increase the burdens on agencies or the public.

DATES: Comments are due October 11, 1988.

ADDRESSES: *Mail:* Legal Services Staff, Office of the Federal Register (NFE), National Archives and Records Administration, Washington, DC 20408.

Hand Delivered: Legal Services Staff, Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Frances McDonald or Sandra McLean, (202) 523–4534.

SUPPLEMENTARY INFORMATION:

Availability of Office of the Federal Register Publications

The Federal Register Act gives the ACFR the authority to regulate the number of copies of Office of the Federal Register (OFR) publications to be distributed without charge to members of the Government for official use and to be made available for purchase by the public. (44 U.S.C. 1506)

The ACFR is proposing to amend its regulations by consolidating all information on the availability of OFR publications in a new Subchapter D consisting of two parts, Parts 11 and 12. Information on subscriptions and official distribution within the Federal Government is presently dispersed throughout Chapter 1, with information located in 1 CFR 3.4, 1 CFR Part 7, 1 CFR 8.8, 1 CFR 9.3, 1 CFR 10.4, and 1 CFR 10.14.

The consolidation of all regulations concerning the availability of OFR publications provides a central, convenient source of information for users or OFR publications. Additionally, future revision of these consolidated regulations is simplified.

Some of the regulations consolidated in Subchapter D are out-of-date. The ACFR, therefore, proposes to revise these regulations. The regulations are also restructured and reworded for consistency. Since several OFR publications are now available in paper, microfiche, and magnetic tape forms, some of the regulations are clarified to identify the specific form to which the text applies. Also, present regulations provide that various OFR publications are distributed in the number needed, without charge to members of the Government for official use. The provision of these copies is based on a written request to the Director of the Federal Register, therefore, this procedure is included when applicable.

The availability of the slip laws and the U.S. Statutes at large is not controlled by the ACFR and therefore information on their availability is not included in the new Part 11. In addition to paper and microfiche, the **Federal Register**, the CFR, and the United States Government Manual, are now available in magnetic tapes. The current prices and availability of these magnetic tapes are added in the new Part 11.

The monthly Federal Register Index and the LSA (List of CFR Sections Affected) are included with each **Federal Register** subscription and each official distribution. Statements to this effect have been added in the new sections 11.2 and 12.1(e). Additionally, the monthly Federal Register Index and LSA (List of CFR Sections Affected) are available as separate subscriptions. A regulation on subscription to the LSA (List of CFR Sections Affected) is added at § 11.8. A regulation on subscription to the monthly Federal Register Index is redesignated from 3.4(b)(8) to § 11.8.

Regulations Affected by Court Decision or Act of Congress

The ACFR is interested in receiving comments on a proposed requirement that an agency promptly publish a document in the **Federal Register** when its regulations are rendered null and void, modified, or suspended by a court decision or an Act of Congress. This proposed regulation would satisfy the requirements of the Federal Register Act, (44 U.S.C. 1501 et seq.), help maintain an orderly system of codification, and would be compatible with OFR's plans to fully implement a current updated CFR data base.

The responsibility for keeping agency regulations current and consistent with relevant Acts of Congress and court decisions rests with each agency. Failure of an agency to promptly remove, revise or suspend regulations rendered ineffective by court decision or Act of Congress conflicts with the purposes of the Federal Register Act. This proposed regulation will be consistent with the Federal Register Act which charges the ACFR with regulating the supplementation of the CFR with a view to keeping the CFR as current as practicable. (44 U.S.C. 1510)

The Federal Register Act requires that the CFR contain agency regulations having general applicability and legal effect. Also, agency documents published in the CFR, as amended by documents subsequently published in the daily **Federal Register** are *prima facie* evidence of the text of the documents and of the fact that they are in effect on and after the date of publication. (44 U.S.C. 1510).

If an agency regulation has been modified, suspended or rendered ineffective, by court decision or Act of Congress, the FR/CFR system reflects the change only when the agency submits the change in a document for publication. This proposed rule would formalize the OFR's existing policy of requiring prompt publication of a document in the **Federal Register** when an agency's regulations are rendered ineffective, modified or suspended by a court decision or an Act of Congress. In this way, the affected public will be informed of the current regulations and the FR/CFR system will be kept current in a logical, orderly manner.

A practical consideration is the OFR's plans for a currently updated CFR data base which would increase the efficiency of OFR operations and offer the potential for Federal agencies to gain access to the most current text of the CFR. Changes to regulations would be entered on the CFR data base by the OFR editors. In order to maintain an orderly and current scheme of codification, the OFR editors must be promptly made aware of any nullification, modification, or suspension of an agency regulation by court decision or Act of Congress.

For these reasons, the ACFR proposes to add a new section 1 CFR 8.10 to require that an agency promptly publish a document in the **Federal Register** when its regulations are rendered null and void, modified or suspended by a court decision or an Act of Congress.

Procedure and Timing for Regular Schedule

The Federal Register Act of 1935 provides for an official publication called the **Federal Register** in which all rules and regulations (of a Federal agency) shall systematically and uniformly be published. Under that Act, the Administrative Committee of the Federal Register (ACFR) is charged with regulating the "manner and form" in which the **Federal Register** shall be printed. (44 U.S.C. 1506(3)).

The ACFR provided for a regular schedule for **Federal Register** publication in 1 CFR 17.2 Section 17.2(a) presently provides that receipt of a document by the OFR in the ordinary course of business (8:45 a.m.–5:15 p.m.) is considered to be a request for publication on the regular schedule, that is, 3 working days later.

Before a document can be scheduled for publication, it must be reviewed to ensure that it meets publication requirements set out in 1 CFR Chapters I and II. When documents are submitted late in the afternoon, the amount of time available for processing is severely decreased. As long as the number of documents submitted late in the day was small, this did not pose a problem for the printing and overall production of the **Federal Register**. Experience now shows, however, that so many documents are being submitted late in the afternoon that assigning the 3 day publication schedule for documents received late in the day is not practical and does not allow efficient use of editorial and printing staff resources.

This proposed rule would change the deadline for receiving documents for publication on the regular 3 day schedule to 2:00 p.m. Documents received after 2:00 p.m. would receive the next working day's regular publication schedule. The 2:00 p.m. deadline would greatly improve the situation created by a large number of documents submitted late in the afternoon and allow for a more efficient production process.

While the Administrative Committee recognizes that requiring receipt of documents by 2:00 p.m. to qualify for OFR's regular schedule may require certain agency administrative adjustments, it believes that the overall benefits justify this change.

The ACFR has not provided in regulations for a regular schedule for Sunshine Act documents in the past, although the OFR has historically afforded these documents an expedited schedule. This proposed rule would formalize the OFR's longstanding policy of assigning a two day schedule for each correctly submitted notice of meeting issued under the "Government in the Sunshine Act" (5 U.S.C. 522b(e)(3)). In accordance with the OFR's existing policy, each Sunshine Act document received before 4:00 p.m. is scheduled to be published two working days later. Each notice received after 4:00 p.m. is scheduled to be published three working days later.

Sunshine Act documents are published in a separate section of the **Federal Register** under simplified formatting requirements. This simplified format allows an agency to present statutorily required information in a clear and efficient manner while providing public notice as quickly as possible. The OFR's abbreviated two day schedule is available because the simple, standardized format permits quicker processing.

Reinstatement of Expired Regulations

OFR has received requests from agencies seeking to extend the effective dates of rules after their expiration but prior to the annual revision of that agency's CFR title. Agencies have proposed that they should be permitted to reinstate rules by publishing a document in the **Federal Register** that would retroactively extend the effective date instead of promulgating newly effective rules in full text.

The ACFR take the position this practice may not satisfy the legal requirements for rulemaking, is not conducive to maintaining an orderly system of codification, and is not compatible with OFR's plans to fully implement a currently updated CFR data base. Therefore, OFR proposes to amend its regulations by adding a regulation delineating the process by which expired material should be reinstated.

Retroactive reinstatement of lapsed rules is also inconsistent with the Federal Register Act. 44 U.S.C. 1510(a) defines the CFR as a codification of documents having general applicability and legal effect. Once a regulation is superseded, revoked or expired, it lacks legal status as a viable section of the CFR and neither the regulation nor its effective date is eligible for amendment.

The Federal Register Act obliges the ACFR to maintain an orderly scheme of codification. Logical, orderly development requires that a systematic approach be employed in which expired regulations are removed and are reinstated only by means of complete republication.

Furthermore, the practice of permitting lapsed regulations to be received retroactively would seem to run afoul of the Administrative Procedure Act (APA), 5 U.S.C. et seq. Such a shortcut to rulemaking does not allow interested persons to participate in the regulatory process. The APA requires that agencies provide notice of rulemaking by means of publication in the **Federal Register** and provide an opportunity for submission of comments (5 U.S.C. 553). In addition, a recent court decision has called into question the legality of retroactive regulations as infringements of the right to due process of law. *Mason General Hospital v. Secretary of the Department of Health and Human Services*, 809 F. 2d 1220 (6th Cir. 1987).

In keeping the CFR data base current, obsolute regulations may be erased from the CFR data base on the day of expiration. To restore this data, agencies should republish the full text in the **Federal Register.**

For these reasons, the ACFR proposes to amend its regulations by adding a new 1 CFR 18.16 to require that expired regulations may only be reinstated by publishing newly effective rules in full text in the **Federal Register.**

Effective Dates and Time Periods

In 1 CFR 18.17, paragraph (a) is revised in accordance with the OFR's current practice, to reflect the fact that many agenices now rely on computed dates. The OFR no longer expresses a preference for documents setting forth dates certain over documents setting forth time periods measured by a certain number of days after publication.

The ACFR is also interested in receiving comments on a new paragraph (c) that is being considered, which would require an agency to promptly publish a document in the **Federal Register** announcing a new effective date in the event an Act of Congress or court order establishes or changes the effective date of an agency's regulation. The ACFR holds that this regulation would satisfy the legal requirements for rulemaking, relieve a presently existing burden on the public, help maintain an orderly system of codification, and be compatible with OFR's plans to fully implement a currently maintained data base.

The responsibility for keeping agency regulations current and consistent with relevant Acts of Congress and court orders rests with each agency. The Administrative Procedure Act (APA), 5 U.S.C. 551 et seq., requires that agencies provide notice of rulemaking by means of publication in the **Federal Register.** The ACFR takes the position that notice of a change to a regulation's effective date is an integral element of any rulemaking. Therefore, any change of an effective date due to Act of Congress or

court order should be published in the **Federal Register.**

The OFR has received agency rulemaking documents that contained effective dates dependent upon Congressional action. Additionally, court orders occasionally establish or change the effective date of an agency's regulation. In either of these instances, the public is only made aware of the changes in effective dates in a timely, convenient manner, if the agency publishes a **Federal Register** document. Clearly the public has an interest in knowing the date on which compliance with agency regulations becomes mandatory. In most cases, the public can rely on the FR/CFR system to supply the effective date for any regulation.

In the past, the OFR has received a few agency documents, which contained both an effective date dependent upon Congressional action and language to the effect that persons interested in the effective date of the regulations, should call the agency's contact person. Such an added burden upon the regulated public is unhelpful and unnecessary when Federal Register publication is available and required as the source of legal notice of rulemaking by the APA.

Furthermore, a practical consideration includes the burden such a vague effective date places on OFR editors updating the annual CFR volumes. When agency documents refer the public to the agency for a regulation's effective date, OFR editors must call the agency to discover the status of each such regulation prior to updating the yearly revision of the CFR volumes. Thus, the OFR as well as the public, must go outside the FR/CFR system to discover the current status of these regulations.

A second consideration is the OFR's goal to improve Federal agencies' access to the most current text of the CFR. In order to implement this goal and maintain an orderly scheme of codification, the OFR editors must know the effective date of each regulation.

For these reasons, the ACFR proposes to amend 1 CFR 18.17 by adding a new paragraph (c) to require that an agency promptly publish a document in the **Federal Register** announcing a new effective date in the event an Act of Congress or court order establishes or changes the effective date of an agency regulation.

Updating Regulations

Some of the regulations in 1 CFR are simply out-of-date. The ACFR, therefore, proposes to remove or amend these regulations to reflect current publication procedures.

The ACFR proposes to make a nomenclature change in 1 CFR 2.3. The change corrects the name of the OFR's parent agency to the National Archives and Records Administration.

Some of the regulations in 1 CFR are gender specific. Sections that contain gender specific terminology, 1 CFR 2.4, 1 CFR 5.3, 1 CFR 9.1, 1 CFR 16.2, 1 CFR 16.3, 1 CFR 16.4, 1 CFR 17.4, 1 CFR 18.7, 1 CFR 20.1, 1 CFR 21.14, and 1 CFR 21.42 are amended to eliminate gender specification.

The title of "The United States Government Manual" is corrected in 1 CFR 2.5, 1 CFR 9.1, the Part heading of 1 CFR Part 20, and 1 CFR 20.1. Also, the "Federal Register Index" and the "LSA (List of CFR Sections Affected)" are added to the list of publications in paragraph (c) of 1 CFR 2.5

The ACFR makes minor technical changes to 1 CFR 3.2 and to the section heading of 1 CFR 3.3.

The regulations at 1 CFR 5.2 and 5.3 are clarified by adding the phrase "filed for public inspection" in place of the word "filed" in accordance with the language and content of 44 U.S.C. 1503. 1 CFR 5.6 is also clarified.

The categories of documents listed in 1 CFR 5.9 are clarified and expanded when necessary to reflect the current publication requirements of the OFR.

In 1 CFR 6.5, the term "index-digests" is changed to "indexes, digests" and the section is clarified. The OFR publishes both indexes and digests, but not index-digests.

The term "general applicability and current or future effect" is changed to "general applicability and legal effect" in 1 CFR 8.1. This change adopts the language used in 44 U.S.C. 1505 and is consistent with the ACFR's language in 1 CFR 5.2.

The language in paragraph (c) of 1 CFR 8.3 is clarified.

The Code of Federal Regulations Index now contains the parallel tables of authorities and rules described in 1 CFR 8.5. The ACFR proposes to update and clarify this section to reflect current practice.

The ACFR is clarifying the section heading of 1 CFR 15.4. This section's text pertains to the reproduction and certification of copies of acts and documents.

The ACFR is removing 1 CFR 15.5. Information on the availability of OFR publications controlled by the ACFR has been consolidated in the new Subchapter D. The availability of the slip laws and the U.S. Statutes at Large is not controlled by the ACFR and therefore, reference to their availability is removed.

An addition to 1 CFR 16.2 provides that agency liaison officers shall be available to discuss documents submitted for publication with the OFR editors. This provision emphasizes the importance the OFR places on this aspect of the liaison officer's duties.

The word "agency" is added to the text for identification purposes in 1 CFR 16.2, 16.3, and 16.4.

The OFR requires each agency requesting publication on the emergency schedule to submit its request by letter. Therefore, 1 CFR 17.4 is revised by removing the phrase "if time permits".

The services provided in 1 CFR 17.5 in conjunction with the transmittal of documents by telecommunication are no longer needed due to the availability of expedited mail services. Therefore, this section is removed.

The term "unusual tabulations" in 1 CFR 17.6, is changed to "unusual or lengthy tables". Additionally, a provision that the OFR staff will notify an agency if its document must be assigned to a deferred schedule is added to § 17.6 to reflect the OFR's current notification procedure.

The regulation on submission of an original document and copies at 1 CFR 18.1 needs clarification and correction. The provision for documents printed on both sides in § 18.1 does not reflect the current OFR practice. The ACFR proposes to amend section 18.1 to require that if an agency submits a document printed on both sides, one of the copies sent by the agency must be a collated, single-sided copy. Additionally, due to the availability of expedited mail services, paragraph (b) is out-of-date and is removed. The footnote to 1 CFR 18.1 is revised and updated. The footnote's reference to a 1972 document is removed due to its age.

The Director of the Federal Register's policy on combined category documents is clarified in the proposed revision of 1 CFR 18.2.

Some of the regulations in 1 CFR include the term "rulemaking" as two words. The sections in the regulations that have rulemaking printed as two words, 1 CFR 18.2, 1 CFR 18.4, the Part heading and table of contents of Part 22, the undesignated Subpart heading above 1 CFR 22.5, 1 CFR 22.5, and 1 CFR 22.7 are revised to a one word spelling.

In 1 CFR 18.3, a new paragraph (c) is added to clarify that receipt dates of documents are determined at the time a signed original and clear and legible copies are received. Additionally, the ACFR proposes to amend section 18.3(a) by removing the obsolete option of filing with the Administrative Committee.

A revision of 1 CFR 18.4 clarifies the OFR's format requirements. Language is added to reflect the fact that the OFR does not accept press releases for publication in the **Federal Register.**

The ACFR proposes to revise and make minor technical changes to 1 CFR 18.5. Obsolete copying procedures are deleted and paragraph (c) is revised and redesignated more appropriately as 1 CFR 18.3(c).

An existing incomplete sentence is revised in 1 CFR 18.6.

The ACFR revises 1 CFR 18.9 to require that documents conform to the current edition of the U.S. Government Printing Office Style Manual in all matters of style.

Material on forms is included in 1 CFR 18.10. Obsolete material in § 18.10 is removed and a new provision added to provide that documents containing tabular material may be assigned to the deferred publication schedule. The inclusion of unusual or lengthy tables in a document occasionally necessitates a deferred schedule as set forth in 1 CFR 17.6.

The ACFR proposes to remove 1 CFR 18.11 because it does not reflect the OFR's current practice.

The language in 1 CFR 18.12 is revised and simplified.

Material reflecting the OFR's current procedures for the correction of errors in documents is included in 1 CFR 18.13. A new paragraph (b) is added reflecting the OFR's procedures for filing for public inspection and ultimate retention of revoking or correcting letters.

The ACFR proposes to remove 1 CFR 18.14 because it does not reflect the OFR's current procedures for correction of errors in documents.

The ACFR proposes to remove superannuated material from 1 CFR 18.20. Provisions for agency actions by December 31, 1981 and April 1, 1982 are no longer current and are removed.

Part 19, which is based upon two Executive Orders, has been amended by E.O. 12080. The ACFR proposes to revise the current authority citation for Part 19 and 1 CFR 19.4 to reflect the addition of this Executive Order. The ACFR also proposes to add an informational footnote on the availability of the publication "Specifications for Descriptions of Tracts of Land for Use in Executive Orders and Proclamations" to 1 CFR 19.1.

The text of 1 CFR 20.1 is restructured.

In 1 CFR 20.3, the ACFR proposes to remove the language requiring submission on charts in duplicate and to clarify other language in this section. It is not the OFR's current practice to require submission of charts in duplicate.

To avoid unnecessary duplication, a phrase is added to 1 CFR 20.4 providing that descriptions of administrative units common to most agencies will not be accepted for publication in The United States Government Manual.

In order to reflect current OFR procedures, it is proposed that 1 CFR 21.1 be revised to require each agency that prepares a document subject to codification to include words of issuance and amendatory language describing the precise relationship of the new provisions to the CFR.

The ACFR proposes to remove 1 CFR 21.4 and 1 CFR 21.15. Neither section reflects the OFR's current procedures.

It is the practice of the OFR to accept an agency document that amends more than one title, or more than one chapter of the CFR. Therefore, the ACFR proposes to remove 1 CFR 21.5.

The text of 1 CFR 21.6 is restructured and language is added to clarify the OFR's requirement that agencies must notify the OFR of the expiration of codified material.

The ACFR proposes to add a new paragraph (c) to 1 CFR 21.8 to clarify that chapter and subchapter assignments are made by the OFR, not by the agency.

In proposed 1 CFR 21.11, the standard organization of the Code of Federal Regulations is revised to include a new example of paragraph designations and a provision that any deviation from the standard designations must be approved in advance by the OFR.

The reservation of numbers at the end of related parts or sections to allow for future expansion is an agency option. Therefore, the ACFR proposes to revise the obsolete requirement for agency reservation of numbers at 1 CFR 21.12 and makes the reservation of numbers optional.

The OFR strongly discourages deviation from the standard organization of the Code of Federal Regulations described at 1 CFR 21.11. The ACFR proposes to remove 1 CFR 21.13 because it is not consistent with current OFR guidance to agencies.

The table of contents in a document must list appendix headings to the part or subpart in addition to headings for the subparts, undesignated center headings and sections in the part as described in 1 CFR 21.18. The ACFR proposes to update 1 CFR 21.18 by adding appendix headings to the part or subpart to the list of items that shall appear in the table of contents. This revision reflects the OFR's current practice.

The ACFR proposes to remove 1 CFR 21.22. The OFR's Document Drafting Handbook contains guidance for agencies that need to reference between or within titles. This functional handbook is the proper source of information and technical instruction for agencies on referencing between or within titles. The ACFR, therefore, does not need to regulate this procedure.

The regulation concerning placing and amending authority citations, 1 CFR 21.43, is clarified and corrected to reflect the current style used in publishing the **Federal Register.**

The ACFR also clarifies 1 CFR 21.45.

The examples in 1 CFR 21.52 are revised to reflect the OFR's format for authority citations.

It is no longer necessary to place the CFR citation referred to in 1 CFR 22.6 in brackets. Obsolete language requiring the use of brackets is removed.

Procedural Matters

This is not a major rule as defined by Executive Order 12291. The rule will have no impact on small entities as described in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The rule as proposed does not contain any information collection or recordkeeping requirements as defined in the Paperwork Reduction Act of 1980. (44 U.S.C. 3501 et. seq.).

List of Subjects in 1 CFR, Parts 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21 and 22

Administrative practice and procedure, Government publications.

Redesignation Table

Old section	New section
	Parts 11–12 (Subchapter D).
3.4(a)	11.1.
3.4(b) introductory text	Removed.
3.4(b)(1)	Removed.
3.4(b)(2)	Removed.
3.4(b)(3)	11.2.
3.4(b)(4)	11.3.
3.4(b)(5)	11.4.
3.4(b)(6)	11.5.
3.4(b)(7)	11.6.
3.4(b)(8)	11.7.
7.1	12.1(a).
7.4	12.1(b).
7.5	12.1(c).
7.6	12.1(d).
8.8	12.2.
9.3(a)	12.3(a).
9.3(b)	12.3 (b) and (c).
10.4	12.4.
10.14	12.5.
Parts 15–22 (Subchapter D).	Parts 15–22 (Subchapter E).
15.5	Removed.
17.5	Removed.
18.1(a)	18.1.
18.1(b)	Removed.
18.5(a)	18.5.
18.5(b)	Removed.
18.5(c)	18.3(c).
18.9 introductory text and (a).	18.9.

Old section	New section
18.9(b)	Removed.
18.9(c)	Removed.
18.10(a)	Removed.
18.10(b)	18.10(a).
18.10(c)	Removed.
18.11	Removed.
18.14	Removed.
18.20(a)	Removed.
18.20(b)	18.20(a).
18.20(c)	18.20(b).
20.1 introductory text	20.1(a).
20.1(a)	20.1(a)(1).
20.1(b)	20.1(a)(2).
20.1(c)	20.1(a)(3).
20.1(d)	20.1(a)(4).
20.1 final undesignated paragraph.	20.1(b).
20.4	20.4 (a) and (b).
21.4	Removed.
21.5	Removed.
21.11(a)	21.11(a)(1).
21.11(b)	21.11(a)(2).
21.11(c)	21.11(a)(3).
21.11(d)	21.11(a)(4).
21.11(e)	21.11(a)(5).
21.11(f)	21.11(a)(6).
21.11(g)	21.11(a)(7).
21.11(h)	21.11(a)(8).
21.13	Removed.
21.15	Removed.
21.22	Removed.

For the reasons set out in the preamble, Title 1, Chapter 1 of the Code of Federal Regulations is amended as follows:

PART 2—GENERAL INFORMATION

1. The authority citation for Part 2 continues to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189; 1 U.S.C. 112; 1 U.S.C. 113.

§ 2.3 [Amended]

2. In § 2.3(a) remove the words "Service of the General Services."

In § 2.3(c) remove the word "Service" and add, in its place, the word "Administration".

§ 2.4 [Amended]

3. In § 2.4(b) remove the word "his" and add, in its place, the words "the Director's".

4. Section 2.5 is amended by revising paragraph (c) to read as follows:

§ 2.5 Publication of statutes, regulations, and related documents.

* * * * *

(c) Based on source materials that are officially related to the acts and documents filed under paragraph (a) of this section, the Office also publishes "The United States Government Manual", the "Public Papers of the Presidents of the United States", the "Weekly Compilation of Presidential Documents," the "Federal Register Index," and the "LSA (List of CFR Sections Affected)".

PART 3—SERVICES TO THE PUBLIC

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

Authority: 44 U.S.C. 1506; sec 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

§ 3.2 [Amended]

2. In § 3.2(a) remove the word "Current"; and remove the figure "8401" and add, in its place, the figure "8301".

In § 3.2(d) remove the word "Manual, typewritten, or other copies" and add, in their place, the word "Photocopies".

3. Section 3.3 is amended by revising the section heading to read as follows:

§ 3.3 Reproduction and certification of copies of acts and documents.

* * * * *

§ 3.4 [Removed]

4. Section 3.4 is removed.

PART 5—GENERAL

1. The authority citation for Part 5 continues to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

2. Section 5.2 is amended by revising the section heading and the introductory text to read as follows:

§ 5.2 Documents required to be filed for public inspection and published.

The following documents are required to be filed for public inspection with the Office of the Federal Register and published in the **Federal Register**:

* * * * *

3. Section 5.3 is revised to read as follows:

§ 5.3 Publication of other documents.

Whenever the Director of the Federal Register considers that publication of a document not covered by § 5.2 would be in the public interest, the Director may allow that document to be filed for public inspection with the Office of the Federal Register and published in the **Federal Register**.

4. Section 5.6 is revised to read as follows:

§ 5.6 Daily publication.

There shall be an edition of the **Federal Register** published for each official Federal working day.

5. Section 5.9 is amended by removing the comma and changing "each" after the word "and" to "any" in paragraph (a) and revising paragraphs (b), (c), and (d) to read as follows:

§ 5.9 Categories of documents.

* * * * *

(b) *Rules and regulations.* Containing each document having general applicability and legal effect, except those covered by paragraph (a) of this section. This category includes documents subject to codification, general policy statements, interpretations of agency regulations, statements of organization and function, and documents that affect other documents previously published in the rules and regulations section.

(c) *Proposed rules.* Containing each notice of proposed rulemaking submitted pursuant to § 553 of Title 5, United States Code, or any other law, which if promulgated as a rule, would have general applicability and legal effect. This category includes documents that suggest changes to regulations in the Code of Federal Regulations, begin a rulemaking proceeding, and affect or relate to other documents previously published in the proposed rules section.

(d) *Notices.* Containing miscellaneous documents applicable to the public and not covered by paragraphs (a), (b), and (c) of this section. This category includes announcements of meetings and other information of public interest.

PART 6—INDEXES AND ANCILLARIES

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

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

2. Section 6.5 is revised to read as follows:

§ 6.5 Indexes, digests, and guides.

(a) The Director of the Federal Register may order the preparation and publication of indexes, digests, and similar guides, based on laws, Presidential documents, regulatory documents, and notice materials published by the Office, which will serve users of the **Federal Register**. Indexes, digests, and similar guides will be published yearly or at other intervals as necessary to keep them current and useful.

(b) Each index, digest, and guide is considered to be a special edition of the **Federal Register** whenever the public need requires special printing or special binding in substantial numbers.

PART 7—[REMOVED]

1. Part 7 is removed.

PART 8—CODE OF FEDERAL REGULATIONS

1. The authority citation for Part 8 continues to read as follows:

Authority: 44 U.S.C. 1506, 1510; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

§ 8.1 [Amended]

2. In § 8.1(a) remove the words "current or future" and add, in their place, the word "legal".

§ 8.3 [Amended]

3. Section 8.3(c) is amended by adding the words "as a codified regulations" after the word "published".

4. Section 8.5 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 8.5 Ancillaries.

* * * * *

(a) *Parallel tables of statutory authorities and rules.* In the Code of Federal Regulations Index or at such other place as the Director of the Federal Register considers appropriate, numerical lists of all sections of the current edition of the United States Code (except section 301 of Title 5) which are cited by issuing agencies as rulemaking authority for currently effective regulations in the Code of Federal Regulations. The lists shall be arranged in the order of the titles and sections of the United States Code with parallel citations to the pertinent titles and parts of the Code of Federal Regulations.

(b) *Parallel tables of Presidential documents and agency rules.* In the Code of Federal Regulations Index, or at such other place as the Director of the Federal Register considers appropriate, tables of proclamations, Executive orders, and similar Presidential documents which are cited as rulemaking authority in currently effective regulations in the Code of Federal Regulations.

(c) *List of CFR sections affected.* Following the text of each Code of Federal Regulations volume, a numerical list of sections which are affected by documents published in the **Federal Register**. [Separate volumes, "List of Sections Affected, 1949–1963" and "List of CFR Sections Affected, 1964–1972" list all sections of the Code which have been affected by documents published during the period January 1, 1949 to December 31, 1963 and January 1, 1964 to December 31, 1972 respectively.] Listings shall refer to **Federal Register** pages and shall be designed to enable the user of the Code to find the precise text that was in effect on a given date in the period covered.

§ 8.8 [Removed]

5. Section 8.8 is removed.

6. Section 8.10 is added to read as follows:

§ 8.10 Regulations affected by court decision or Act of Congress.

(a) If an agency's regulations are adversely affected on a temporary basis by a court decision, the agency shall immediately publish in the **Federal Register** a document notifying the public of the litigation and its effect.

(b) If an agency's regulations are permanently affected by being struck down in whole or in part by a court decision, the agency shall immediately publish in the **Federal Register** a document that details that litigation and its effect on the regulations pursuant to 44 U.S.C. 1510.

(c) If an agency's regulations are modified, suspended or rendered ineffective by an Act of Congress the agency shall immediately publish in the **Federal Register** a document notifying the public of the Act of Congress and its effect on the regulations pursuant to 44 U.S.C. 1510.

PART 9—THE UNITED STATES GOVERNMENT MANUAL

1. The part heading is revised to read as shown above.

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

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

3. Section 9.1 is revised to read as follows:

§ 9.1 Publication required.

The Director of the Federal Register shall separately publish annually or at times designated by the Administrative Committee of the Federal Register a special edition of the **Federal Register** called "The United States Government Manual" or any other title that the Administrative Committee of the Federal Register considers appropriate. The Director of the Federal Register may issue special supplements to the Manual when such supplementation is considered to be in the public interest.

§ 9.3 [Removed]

4. Section 9.3 is removed.

PART 10—PRESIDENTIAL PAPERS

1. The authority citation for Part 10 is revised to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

§ 10.4 [Removed]

2. Section 10.4 is removed.

§ 10.14 [Removed]

3. Section 10.14 is removed.

Subchapter D—[Redesignated as Subchapter E]

1. Subchapter D consisting of Parts 15 through 22, is redesignated as Subchapter E and new Subchapter D, consisting of Parts 11 and 12, is added to read as follows:

SUBCHAPTER D—AVAILABILITY OF OFFICE OF THE FEDERAL REGISTER PUBLICATIONS

PART 11—SUBSCRIPTIONS

Sec.

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

§ 11.1 Subscription by the public.

The publications described in § 2.5 of this chapter are printed by the Government Printing Office and are sold by the Superintendent of Documents, Government Printing Office, Washington, DC 20402. All fees are payable in advance to the Superintendent of Documents, Government Printing Office. They are not available for free distribution to the public.

§ 11.2 Federal Register.

Daily issues, including the monthly Federal Register Index and the LSA (List of CFR Sections Affected), will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. Limited quantities of current or recent copies may be obtained for $1.50 per copy in paper or microfiche form, or $175 per magnetic tape.

§ 11.3 Code of Federal Regulations.

A complete set will be furnished by mail to subscribers for $620 per year for the bound, paper edition; $188 per year for the microfiche edition; or $21,750 per year for the magnetic tape. Individual copies of the bound, paper edition of the Code volumes are sold at prices determined by the Superintendent of Documents under the general direction of the Administrative Committee. The price of an individual volume in microfiche form is $2.00 per copy, or $125 per magnetic tape.

§ 11.4 The United States Government Manual.

Copies of the bound, paper edition of the Manual are sold at a price determined by the Superintendent of Documents under the general direction of the Administrative Committee. The price of the magnetic tape is $125 per tape.

§ 11.5 Public Paper of the Presidents of the United States.

Copies of annual clothbound volumes are sold at a price determined by the Superintendent of Documents under the general direction of the Administrative Committee.

§ 11.6 Weekly Compilation of Presidential Documents.

Copies will be furnished to subscribers in paper form for $96 per year by first-class mail or $55 per year by non-priority mail. The price of an individual copy in paper form, is $2.00.

§ 11.7 Federal Register Index.

The annual subscription price for the monthly Federal Register Index, purchased separately, in paper form, is $19. Individual copies in paper form are $1.50 per copy.

§ 11.8 LSA (List of CFR Sections Affected).

The annual subscription price for the monthly LSA (List of CFR Sections Affected), purchased separately, in paper form, is $21. Individual copies in paper form are $1.50 per copy.

PART 12—OFFICIAL DISTRIBUTION WITHIN FEDERAL GOVERNMENT

Sec.
12.1 Federal Register.
12.2 Code of Federal Regulations.
12.3 The United States Government Manual.
12.4 Weekly Compilation of Presidential Documents.
12.5 Public Papers of the Presidents of the United States.

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

§ 12.1 Federal Register.

(a) Copies of the daily **Federal Register** in paper or microfiche form shall be made available to the following without charge:

(1) *Members of Congress.* To each Senator and each Member of the House of Representatives not more than five copies of each daily issue based on a written request to the Director of the Federal Register.

(2) *Congressional committees.* To each committee of the Senate and the House of Representatives the number of copies needed for official use based on a written request from the chairperson, or authorized delegate, to the Director of the Federal Register.

(3) *Supreme Court.* To the Supreme Court the number of copies needed for official use based on a written request to the Director of the Federal Register.

(4) *Other courts.* To other constitutional or legislative courts of the United States the number of copies needed for official use based on a written request from the Director of the Administrative Office of the U.S. Courts, or authorized delegate, to the Director of the Federal Register.

(5) *Executive agencies.* To each Federal executive agency the number of copies needed for official use based on a written request from the agency Federal Register authorizing officer, or the alternate, designated under section 16.1 of this chapter, to the Director of the Federal Register.

(b) Requisitions for quantity overruns of specific issues to be paid for by the agency are available as follows:

(1) To meet its needs for special distribution of the **Federal Register** in substantial quantity, any agency may request an overrun of a specific issue.

(2) An advance printing and binding requisition on Standard Form 1 must be submitted by the agency directly to the Government Printing Office, to be received not later than 12 noon on the working day before publication.

(c) Requisitions for quantity overruns of separate part issues to be paid for by the agency are available as follows:

(1) Whenever it is determined by the Director of the Federal Register to be in the public interest, one or more documents may be published as a separate part (e.g., Part II, Part III) of the **Federal Register.**

(2) Advance arrangements for this service must be made with the Office of the Federal Register.

(3) Any agency may request an overrun of such a separate part by submitting an advance printing and binding requisition on Standard Form 1 directly to the Government Printing Office, to be received not later than 12 noon on the working day before the publication date.

(d) An agency may order limited quantities of extra copies of a specific issue of the **Federal Register** for official use, from the Superintendent of Documents, to be paid for by that agency.

(e) Copies of the Federal Register Index and LSA (List of CFR Sections Affected) are included with each **Federal Register** official distribution.

§ 12.2 Code of Federal Regulations.

(a) Copies of the Code of Federal Regulations in paper or microfiche form shall be made available to the following without charge:

(1) *Congressional committees.* To each committee of the Senate and House of Representatives the number of copies needed for official use based on a written request from the chairperson, or authorized delegate, to the Director of the Federal Register.

(2) *Supreme Court.* To the Supreme Court the number of copies needed for official use based on a written request to the Director of the Federal Register.

(3) *Other courts.* To other constitutional and legislative courts of the United States the number of copies needed for official use based on a written request from the Director of the Administrative Office of the U.S. Courts, or authorized delegate, to the Director of the Federal Register.

(4) *Executive agencies.* To each Federal executive agency the number of copies needed for official use, not to exceed 300 copies of individual titles per agency, based on a written request from the agency Federal Register authorizing officer, or the alternate, designated under section 16.1 of this chapter, to the Director of the Federal Register.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain additional copies of selected units of the Code, at cost, for official use, by submission, before the press run, of a printing and binding requisition to the Government Printing Office on Standard From 1.

(c) After the press run, each request for extra copies of selected units of the Code must be addressed to the Superintendent of Documents, to be paid for by the agency making the request.

§ 12.3 The United States Government Manual.

(a) Copies of The United States Government Manual shall be made available to the following without charge:

(1) *Members of Congress.* To each Senator and each Member of the House of Representaitves twelve copies.

(2) *Congressional committees.* To each committee of the Senate and House of Representatives the number of copies needed for official use based on a written request from the chairperson, or authorized delegate, to the Director of the Federal Register.

(3) *Supreme Court.* To the Supreme Court not more than 18 copies based on a written request to the Director of the Federal Register.

(4) *Other courts.* To other constitutional and legislative courts of the United States one copy based on a written request from the Director of the

Administrative Office of the U.S. Courts, or authorized delegate, to the Director of the Federal Register.

(5) *Executive agencies.* To each head of a Federal executive agency and each liaison officer designated under §§ 16.1 or 20.1 of this chapter, one copy.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain additional copies of the Manual, at cost, for official use, by submission, before the press run, of a printing and binding requisition to the Government Printing Office on Standard Form 1.

(c) After the press run, each request for extra copies of the Manual must be addressed to the Superintendent of Documents, to be paid for by the agency making the request.

§ 12.4 Weekly Compilation of Presidential Documents.

(a) Copies of the Weekly Compilation of Presidential Documents shall be made available to the following without charge:

(1) *Members of Congress.* To each Senator and each Member of the House of Representatives the number of copies needed for official use based on a written request to the Director of the Federal Register.

(2) *Congressional committees.* To each committee of the Senate and the House of Representatives the number of copies needed for official use based on a written request from the chairperson, or authorized delegate, to the Director of the Federal Register.

(3) *Supreme Court.* To the Supreme Court the number of copies needed for official use based on a written request to the Director of the Federal Register.

(4) *Other courts.* To other constitutional and legislative courts of the United States the number of copies needed for official use based on a written request from the Director of the Administrative Office of the U.S. Courts, or authorized delegate, to the Director of the Federal Register.

(5) *Executive agencies.* To each Federal executive agency the number of copies needed for official use based on a written request from the agency Federal Register authorizing officer, or the alternate designated under section 16.1 of this chapter, to the Director of the Federal Register.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain additional copies of selected issues of the Weekly Compilation of Presidential Documents, at cost, for official use, by submission, before the press run, of a printing and binding requisition to the Government Printing Office on a Standard Form 1.

(c) After the press run, each request for extra copies of selected issues must be addressed to the Superintendent of Documents, to be paid for by the agency making the request.

§ 12.5 Public Papers of the Presidents of the United States.

(a) Copies of the Public Papers of the Presidents of the United States shall be made available to the following without charge:

(1) *Members of Congress.* To each Senator and each Member of the House of Representatives one copy of each annual publication published during the Member's term in office based on a written request to the Director of the Federal Register.

(2) *Supreme Court.* To the Supreme Court not more than 12 copies of each publication based on a written request to the Director of the Federal Register.

(3) *Executive agencies.* To each head of a Federal executive agency one copy of each annual publication based on a written request from the agency Federal Register authorizing officer, or the alternate, designated under section 16.1 of this chapter, to the Director of the Federal Register.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain additional copies, at cost, for official use, by submission before the press run, of a printing and binding requisition to the Government Printing Office on Standard Form 1.

(c) After the press run, each request for extra copies must be addressed to the Superintendent of Documents, to be paid for by the agency making the request.

PART 15—SERVICES TO FEDERAL AGENCIES

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

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

2. Section 15.4 is amended by revising the section heading to read as follows:

§ 15.4 Reproduction and certification of copies of acts and documents.

* * * * *

§ 15.5 [Removed]

3. Section 15.5 is removed.

PART 16—AGENCY REPRESENTATIVES

1. The authority citation for Part 16 continues to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

2. Section 16.2 is revised to read as follows:

§ 16.2 Liaison duties.

Each agency liaison officer shall—

(a) Represent the agency in all matters relating to the submission of documents to the Office of the Federal Register, and respecting general compliance with this chapter;

(b) Be responsible for the effective distribution and use within the agency of Federal Register information on document drafting and publication assistance authorized by § 15.10 of this chapter;

(c) Promote the agency's participation in the technical instruction authorized by § 15.10 of this chapter; and

(d) Be available to discuss documents submitted for publication with the editors of the **Federal Register.**

3. Section 16.3 is revised to read as follows:

§ 16.3 Certifying duties.

The agency certifying officer is responsible for attaching the required number of true copies of each original document submitted by the agency to the Office of the Federal Register and for making the certification required by §§ 18.5 and 18.6 of this chapter.

4. Section 16.4 is revised to read as follows:

§ 16.4 Authorizing duties.

The agency authorizing officer is responsible for furnishing, to the Director of the Federal Register, a current mailing list of officers or employees of the agency who are authorized to receive the **Federal Register**, the Code of Federal Regulations, and the Weekly Compilation of Presidential Documents for official use.

PART 17—PUBLICATION SCHEDULES

1. The authority citation for Part 17 continues to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

2. Section 17.2 is revised to read as follows:

§ 17.2 Procedure and timing for regular schedule.

(a) Except as provided in paragraph (c) of this section, each document received by 2:00 P.M. which meets the requirements of this chapter shall be assigned to the regular schedule unless the issuing agency makes special arrangements otherwise, or the Office determines that the document requires a deferred schedule (See 1 CFR 17.6). Receipt of a document by 2:00 p.m. is considered to be a request for publication on the regular schedule. Documents received after 2:00 p.m.

which meet the requirements of this chapter shall be assigned to the next working day's regular schedule.

(b) The regular schedule for publication is as follows:

Received before 2:00 p.m.	Filed	Published
Monday	Wednesday	Thursday
Tuesday	Thursday	Friday
Wednesday	Friday	Monday
Thursday	Monday	Tuesday
Friday	Tuesday	Wednesday

Where a legal Federal holiday intervenes, one additional work day is added.

(c) Each notice of meeting issued under the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(3)) is scheduled for immediate public inspection.

(1) Each notice received before 4:00 p.m. is scheduled to be published two working days later.

(2) Each notice received after 4:00 p.m. is scheduled to be published three working days later.

Section 17.4 is amended by revising paragraphs (a) and (b) to read as follows:

§ 17.4 Procedure and timing for emergency schedule.

(a) Each agency requesting publication on the emergency schedule shall briefly describe the emergency and the benefits to be attributed to immediate publication in the **Federal Register**. The request must be made by letter.

(b) The Director of the Federal Register shall assign a document to the emergency schedule whenever the Director concurs with a request for that action and it is feasible.

* * * * *

§ 17.5 [Removed]

4. Section 17.5 is removed.

5. Section 17.6 is amended by removing the word "tabulations" from paragraph (a) and by adding the words "or lengthy tables" in its place and by adding a paragraph (c) to read as follows:

§ 17.6 Criteria.

* * * * *

(c) The Office of the Federal Register staff will notify the agency if its documents must be assigned to a deferred schedule.

PART 18—PREPARATION AND TRANSMITTAL OF DOCUMENTS GENERALLY

1. The authority citation for Part 18 continues to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

2. Section 18.1 is revised to read as follows:

§ 18.1 Original and copies required.

Except as provided in § 19.2 of this subchapter for Executive orders and proclamations, each agency submitting a document to be filed and published in the **Federal Register** shall send an original and two duplicate originals or certified copies.[1] However, if the document is printed or processed on both sides, one of the copies sent by the agency must be a collated, single-sided copy.

3. Section 18.2 is revised to read as follows:

§ 18.2 Prohibition on combined category documents.

(a) The Director of the Federal Register will not accept a document for filing and publication if it combines material that must appear under more than one category in the **Federal Register**. For example, a document may not contain both rulemaking and notice of proposed rulemaking material.

(b) Where two related documents in different categories are to be published in the same **Federal Register** issue, the agency may insert a cross-reference in each document.

4. Section 18.3 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 18.3 Submission of documents and letters of transmittal.

(a) Each document authorized or required by law to be filed with the Office of the Federal Register and published in the **Federal Register** shall be sent to the Director of the Federal Register.

* * * * *

(c) Receipt dates are determined at the time a signed original and clear and legible copies are received.

5. Section 18.4 is revised to read as follows:

§ 18.4 Form of document.

(a) Except as provided in paragraph (b) of this section, to be eligible for filing and publication in the **Federal Register**, a document must be typewritten on white bond paper approximately 8½ by 11 inches in size, double spaced, with left-hand margin of approximately 1½ inches and a right-hand margin and margins at top and bottom of approximately 1 inch.

[1] Agencies with computer processed data are urged to consult with the Office of the Federal Register staff about possible use of the data in the publication process.

(b) A printed or processed document may be accepted for filing and publication if it is on bond or similar quality paper, legible, and free of adhesive or correction tape.

(c) A document in the form of a letter or press release may not be accepted for filing or publication in the rules and regulations, proposed rules, or notices categories of the **Federal Register**.

6. Section 18.5 is revised to read as follows:

§ 18.5 Certified copies.

The certified copies or duplicate originals of each document must be submitted with the original. Each copy of duplicate must be entirely clear and legible.

7. Section 18.6 is revised to read as follows:

§ 18.6 Form of certification.

Each copy of each document submitted for filing and publication, except a Presidential document or a duplicate original, must be certified as follows:

(Certified to be a true copy of the original)

The certification must be signed by a certifying officer designated under section 16.1 of this chapter.

§ 18.7 [Amended]

8. In § 18.7 in the first sentence, remove the word "his" and add, in its place, the word "the". In the second sentence, remove the word "may" and add, in its place, the word "will".

9. Section 18.9 is revised to read as follows:

§ 18.9 Style.

Each document submitted by an agency for filing and publication shall conform to the current edition of the U.S. Government Printing Office Style Manual in punctuation, capitalization, spelling, and other matters of style.

10. Section 18.10 is revised to read as follows:

§ 18.10 Illustrations, tabular material, and forms.

(a) If it is necessary to publish a form or illustration, a clear and legible reproduction of an original form or illustration, approximately 8½ by 11 inches, shall be included in the original document and each certified copy.

(b) A document that includes tabular material may be assigned to the deferred publication schedule. See § 17.6.

§ 18.11 [Removed]

11. Section 18.11 is removed.

12. Section 18.12 is amended by revising the last sentence of paragraph (b) and the introductory text of paragraph (c) to read as follows:

§ 18.12 Preamble requirements.

* * * * *

(b) * * *

(See paragraph (c) of this section)

(c) The agency may include the following information in the preamble, as applicable:

* * * * *

13. Section 18.13 is revised to read as follows:

§ 18.13 Withdrawal or correction of filed documents.

(a) A document that has been filed with the Office of the Federal Register and placed on public inspection as required by this chapter, may be withdrawn from publication or corrected by the submitting agency only by a timely letter revoking or correcting that document, signed by a duly authorized representative of the agency.

(b) Both the originally filed document and the revoking or correcting letter shall remain on file. The original document and the revoking or correcting letter will be retained by the Office of the Federal Register after the public inspection period expires.

§ 18.14 [Removed]

14. Section 18.14 is removed.

15. Section 18.16 is added to read as follows:

§ 18.16 Reinstatement of expired regulations.

Agencies may reinstate expired regulations only by republishing the regulations in full text in the **Federal Register**.

16. Section 18.17 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 18.17 Effective dates and time periods.

(a) Each document submitted for publication in the **Federal Register** should either set forth a date certain or a time period measured by a certain number of days after publication in the **Federal Register**. When a document sets forth a time period measured by a certain number of days after publication, Office of the Federal Register staff will compute the date to be inserted in the document as set forth in paragraph (b) of this section.

* * * * *

(c) In the event an Act of Congress or court order establishes or changes the effective date of an agency's regulation, the issuing agency shall promptly publish a document in the **Federal Register** announcing the new effective date.

§ 18.20 [Amended]

17. Section 18.20 is amended by removing paragraph (a), redesignating paragraphs (b) and (c) as paragraphs (a) and (b), and amending newly redesignated paragraph (a) introductory text by removing the phrase "Beginning April 1, 1982,".

PART 19—EXECUTIVE ORDERS AND PRESIDENTIAL PROCLAMATIONS

1. The authority citation for Part 19 is revised to read as follows:

Authority: Secs. 1 to 6 of E.O. 11030, 27 FR 5847, 3 CFR, 1959–1963 Comp., p. 610; E.O. 11354, 32 FR 7695, 3 CFR, 1966–1970 Comp., p. 652; and E.O. 12080, 43 FR 42235, 3 CFR, 1978 Comp., p. 224.

§ 19.1 [Amended]

2. Section 19.1(e) is amended by adding footnote 2 after the reference to "Specifications for Descriptions of Tracts of Land for Use in Executive Orders and Proclamations", to read as follows:

3. Section 19.4 is amended by adding the following sentence to the end to read as follows:

§ 19.4 Proclamations calling for the observance of special days or events.

* * * * *

Notwithstanding the provisions of § 19.2, the Director shall transmit any approved commemorative proclamations to the President.

PART 20—HANDLING OF THE UNITED STATES GOVERNMENT MANUAL STATEMENTS

1. The part heading is revised to read as shown above.

2. The authority citation for Part 20 continues to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

§ 20.1 [Amended]

3. In § 20.1, paragraphs (a) through (d) are redesignated as (a)(1) through (4); the final undesignated paragraph is designated as paragraph (b) and amended by removing the words "his agency's" and adding, in their place, the word "agency"; and the introductory text is designated as paragraph (a) introductory text and amended by capitalizing the word "the" that appears before the words "United States Government Manual."

[2] Available from Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

4. Section 20.3 is amended by revising paragraphs (a) and (c) to read as follows:

§ 20.3 Organization.

(a) Information about lines of authority and organization may be reflected in a chart if the chart clearly delineates the agency's organizational structure. Charts must be prepared so as to be perfectly legible when reduced to the size of a Manual page. Charts that do not meet this requirement will not be included in the Manual.

* * * * *

(c) Narrative descriptions of organizational structure or hierarchy that duplicate information conveyed by charts or by list of officials will not be published in the Manual.

5. Section 20.4 is revised to read as follows:

§ 20.4 Description of program activities.

(a) Descriptions should clearly state the public purposes that the agency serves, and the programs that carry out those purposes.

(b) Descriptions of the responsibilities of individuals or of administrative units common to most agencies will not be accepted for publication in the Manual.

PART 21—PREPARATION OF DOCUMENTS SUBJECT TO CODIFICATION

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

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

2. Section 21.1 is amended by revising paragraph (b) to read as follows:

§ 21.1 Drafting.

* * * * *

(b) Each agency that prepares a document that is subject to codification shall include words of issuance and amendatory language that precisely describes the relationship of the new provisions to the Code.

§ 21.4 [Removed]

3. Section 21.4 is removed.

§ 21.5 [Removed]

4. Section 21.5 is removed.

5. Section 21.6 is revised to read as follows:

§ 21.6 Notice of expiration of codified material.

Whenever a codified regulation expires after a specified period by its own terms or by law, the issuing agency shall submit a notification by document for publication in the **Federal Register**.

6. Section 21.8 is amended by adding a new paragraph (c) to read as follows:

§ 21.8 Chapters and subchapters.

* * * * *

(c) Chapter and subchapter assignments are made by the Office of the Federal Register.

7. Section 21.11 is revised to read as follows:

§ 21.11 Standard organization of the Code of Federal Regulations.

(a) The standard organization consists of the following structural units:

(1) Titles, which are numbered consecutively in Arabic throughout the Code.

(2) Subtitles, which are lettered consecutively in capitals throughout the title.

(3) Chapters, which are numbered consecutively in Roman capitals throughout each title.

(4) Subchapters, which are lettered consecutively in capitals throughout the chapter.

(5) Parts, which are numbered in Arabic throughout each title.

(6) Subparts, which are lettered in capitals.

(7) Sections, which are numbered in Arabic throughout each part. A section number includes the number of the part followed by a decimal point and the number of the section. For example, the section number for section 15 of Part 21 is "§ 21.15".

(8) Paragraphs, which are designated as follows:

level 1.....(a), (b), (c), etc.
level 2.....(1), (2), (3), etc.
level 3.....(i), (ii), (iii), etc.
level 4.....(A), (B), (C), etc.
level 5.....(*1*), (*2*), (*3*), etc.
level 6.....(*i*), (*ii*), (*iii*), etc.

(b) Any deviation from standard Code of Federal Regulations designations must be approved in advance by the Office of the Federal Register.

§ 21.12 [Amended]

8. Section 21.12 remove the word "shall" and add, in its place, the word "may".

§ 21.13 [Removed]

9. Section 21.13 is removed.

§ 21.14 [Amended]

10. In section 21.14 remove the phrase ", in his opinion,".

§ 21.15 [Removed]

11. Section 21.15 is removed.

12. Section 21.18 is amended by revising the last sentence to read as follows:

§ 21.18 Tables of contents.

* * * It shall also list the headings for the subparts, undesignated center headings, sections in the part, and appendix headings to the part or subpart.

§ 21.22 [Removed]

13. Section 21.22 is removed.

§ 21.42 [Amended]

14. In § 21.42 remove the word "he" and add, in its place, the words "the Director".

15. Section 21.43 is amended by revising the second sentence of paragraph (b) to read as follows:

§ 21.43 Placing and amending authority citations.

* * * * *

(b) * * * The authority citation shall appear at the end of the table of contents for a part or after each subpart heading within the text of a part. * * *

§ 21.45 [Amended]

16. In section 21.45 add the word "nonstatutory" before the word "document".

17. Section 21.52 is revised to read as follows:

§ 21.52 Statutory material.

(a) *United States Code.* All citations to statutory authority shall include a United States Code citation, where available. Citations to titles of the United States Code, whether or not enacted into positive law, should be cited without Public Law or U.S. Statutes at Large citation. For example:

Authority: 10 U.S.C. 501.

(b) Citations to Public Laws and U.S. Statutes at Large are optional when the United States Code is cited.

(1) *Public Laws.* Citations to current public laws shall include reference to the volume and page of the U.S. Statutes at Large to which they have been assigned. For example:

Authority: Sec. 5, Pub. L. 89–670, 80 Stat. 935 (49 U.S.C 1654).

(2) *U.S. Statutes at Large.* Citations to the U.S. Statutes at Large shall refer to section, page, and volume. The page number should refer to the page on which the section cited begins. For example:

Authority: Sec. 5, Pub. L. 89–670, 80 Stat. 935 (49 U.S.C. 1654); sec. 313, Pub. L. 85–726, 72 Stat. 752 (49 U.S.C. 1354).

§ 21.53 [Amended]

18. In section 21.53 add the word "AUTHORITY:" in front of the word "Special".

PART 22—PREPARATION OF NOTICES AND RULEMAKING PROPOSALS

1. The part heading is revised to read as shown above.

2. The authority citation for Part 22 continues to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

3. The undesignated center heading that appears above § 22.5 is revised to read as follows:

Notices of Proposed Rulemaking

§ 22.5 [Amended]

4. In § 22.5, introductory text and paragraph (a), the words "rule making" are made one word.

§ 22.6 [Amended]

5. In section 22.6 the words "in brackets" are removed and the brackets that appear around the citation, "[1 CFR Part 22]" are also removed.

§ 22.7 [Amended]

6. In section 22.7 the words "rule making" are made one word.

By Order of the Committee.

John E. Byrne,

Secretary, Administrative Committee of the Federal Register.

[FR Doc. 88–17820 Filed 8–8–88; 8:45 am]

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Federal Register

Tuesday
August 9, 1988

Part III

Environmental Protection Agency

40 CFR Part 300

National Priorities List for Uncontrolled Hazardous Waste Sites; Policy Statements

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-3426-6]

The National Priorities List for Uncontrolled Hazardous Waste Sites—Additions to Policy for Determining Inability-To-Pay for Sites Subject to the Subtitle C Corrective Action Authorities of the Resource Conservation and Recovery Act

AGENCY: Environmental Protection Agency.

ACTION: Policy statement for comment.

SUMMARY: The Environmental Protection Agency (EPA) is requesting comment on a policy relating to the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), and Executive Order 12316.

CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, and contaminants throughout the United States, and that the list be revised at least annually. The National Priorities List (NPL), initially promulgated as Appendix B of the NCP on September 8, 1983, constitutes this list and meets those requirements.

Since the first NPL final rule (48 FR 40658, September 8, 1983), the Agency's policy has been to defer placing sites on the NPL that can be addressed by corrective action under Subtitle C of the Resource Conservation and Recovery Act (RCRA). This notice solicits comment on additional criteria for determining when the owner/operator of a site is considered unable to pay for addressing the contamination at a RCRA-regulated site, and therefore, the site should be proposed for the NPL. Elsewhere in today's **Federal Register**, the Agency is publishing a notice that discusses the policy for determining when RCRA facilities are unwilling to perform corrective action, and therefore, should be proposed for the NPL.

DATE: Comments may be submitted on or before October 11, 1988.

ADDRESSES: Comments on the inability criteria may be mailed to CERCLA Docket Clerk, Attn: Docket Number NPL-UL; Mail Code WH-548D, Superfund Docket, Room LG-100, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Please send three copies of comments.

FOR FURTHER INFORMATION CONTACT: Nancy Parkinson, RCRA Enforcement Division, Office of Waste Programs Enforcement (WH-527), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, phone (800) 424-9346 or 382-3000 in the Washington, DC metropolitan area.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sections 9601-9657 (CERCLA or the Act), in response to the dangers of uncontrolled hazardous waste sites; CERCLA was amended in 1986 by the Superfund Amendments and Reauthorization Act (SARA). To implement CERCLA, the Environmental Protection Agency (EPA or the Agency) promulgated the revised National Oil and Hazardous Substances Contingency Plan (NCP), 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to Section 105 of CERCLA and Executive Order 12316. The NCP, further revised by EPA on September 16, 1985 (50 FR 37624), and November 20, 1985 (50 FR 47912), sets forth guidelines and procedures needed to respond under CERCLA to releases or threatened releases of hazardous substances, pollutants, or contaminants.

Section 105(a)(8)(A) of CERCLA (as amended) requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial or removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions on a short-term or temporary basis (CERCLA Section 101(23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with a permanent remedy (CERCLA Section 101(24)). The Agency developed the Hazard Ranking System (HRS) to implement CERCLA Section 105(a)(8)(A). The HRS was codified as Appendix A of the NCP on July 16, 1982 (47 FR 31219).

Section 105(a)(8)(B) of CERCLA (as amended) requires that the statutory criteria described in the HRS be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States. The list, which is Appendix B of the NCP, is the National Priorities List (NPL). Section 105(a)(8)(B) also requires that the NPL be revised at least annually. An initial NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has been amended several times since then. Currently, there are 799 sites on, and 378 sites proposed to, the NPL.

II. Contents of this Policy

A. History of the Policy

Since the first NPL final rule (48 FR 40658, September 8, 1983), the Agency's policy has been to defer placing on the NPL sites that could be addressed by the corrective action authorities under Subtitle C of the Resource Conservation and Recovery Act (RCRA). Until 1984, the RCRA Subtitle C corrective action authorities were limited to facilities with releases to ground water from surface impoundments, waste piles, land treatment areas, and landfills that received RCRA hazardous waste after July 26, 1982, and did not certify closure prior to January 26, 1983 (i.e., land disposal facilities addressable by an operating or post-closure permit). Sites which met these criteria were placed on the NPL only if they were abandoned, lacked sufficient resources, or RCRA Subtitle C corrective action authorities could not be enforced. Those RCRA facilities where a significant portion of the release appeared to come from a nonregulated land disposal unit were also considered appropriate for listing.

On November 8, 1984, the Hazardous and Solid Waste Amendments of 1984 (HSWA) were enacted. HSWA greatly expanded RCRA Subtitle C corrective action authorities as follows:

- Section 3004(u) requires permits issued after the enactment of HSWA to include corrective action for all releases of hazardous waste or constituents from solid waste management units at treatment, storage, or disposal facilities seeking a permit;
- Section 3004(v) requires corrective action to be taken beyond the facility boundary where necessary to protect human health and the environment unless the owner/operator of the facility demonstrates that despite the owner or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action; and
- Section 3008(h) authorizes the Administrator of EPA to issue an order requiring corrective action or such other response measure as deemed necessary to protect human health or the environment whenever it is determined that there is or has been a release of hazardous waste into the environment from a facility with interim status.

Because the expanded Subtitle C corrective action authorities of HSWA allowed EPA to address contamination at non-regulated units of RCRA

facilities, the Agency announced a draft revised policy which provided for the deferral from listing of RCRA sites unless the Agency determined that RCRA corrective action was not likely to succeed or occur promptly, due to factors such as:

- The inability or unwillingness of the owner/operator to pay for addressing the contamination at the site
- Inadequate financial responsibility guarantees to pay for such costs
- EPA or State priorities for addressing RCRA sites (50 FR 14118, April 10, 1985).

The Agency evaluated comments received on the draft policy, and on June 10, 1986 (51 FR 21059), announced its listing and deferral policy for non-Federal RCRA sites.[1] RCRA sites not subject to RCRA Subtitle C corrective action authorities would continue to be on the NPL. Some examples include:

Facilities that ceased treating, storing, or disposing of hazardous waste prior to November 19, 1980 (the effective date of Phase I of the RCRA regulations), and to which the RCRA corrective action authorities cannot be applied;

Sites at which only materials exempted from the statutory or regulatory definition of solid or hazardous waste were managed; and

RCRA hazardous waste handlers to which RCRA Subtitle C corrective action authorities do not apply, such as hazardous waste generators or transporters not required to have interim status or a final RCRA permit.

Further, the Agency stated that although sites that could be addressed by RCRA Subtitle C corrective action authorities generally would not be placed on the NPL, RCRA sites subject to corrective action should be listed in certain circumstances if the owners/operators of facilities are either unable or unwilling to take corrective action at sites. The Agency recognized that in such situations, it may be appropriate to place the sites on the NPL in order to make CERCLA funds available, if needed, for remedial action.[2]

[1] At that time, the Agency announced that it would consider at a later date whether this revised policy should apply to Federal facilities. On May 13, 1987 (52 FR 17991), the Agency announced its intent that Federal facilities should continue to be placed on the NPL regardless of their RCRA status.

[2] On June 24, 1988 (53 FR 23978), the Agency identified several other categories of RCRA facilities that are appropriate for the NPL. These facilities include converters, protective filers, non- or late-filers, and facilities with permits for the treatment, storage or disposal of hazardous waste issued prior to enactment of HSWA (where the owner/operator will not voluntarily modify the permit). Although the Agency has authority to compel RCRA corrective action at certain of these facilities (e.g., converters and non- or late-filers), the Agency has decided, for policy reasons, to clean up these sites using its CERCLA authority.

The Agency identified three categories of sites which, although subject to RCRA Subtitle C corrective action authorities, satisfy the unwillingness or inability criteria, and thus should be placed on the NPL:

(1) Facilities owned by persons who are bankrupt;

(2) Facilities that have lost authorization to operate and for which there are indications that the owner/operator has been unwilling to undertake corrective action; and

(3) Facilities that have not lost authorization to operate, but which have a clear history of unwillingness. These situations are determined on a case-by-case basis (51 FR 21054, June 10, 1986).

Also, on June 10, 1986, the Agency solicited comments on the types of sites that may have demonstrated an unwillingness to perform corrective action (51 FR 21111). The Agency suggested that sites meeting the following criteria might be placed on the NPL under the unwillingness category:

(1) Facilities whose owners or operators have not complied adequately with an administrative order, judicial action, or a RCRA permit condition requiring response or corrective action; and

(2) Facilities whose owners or operators have not submitted or implemented an adequate closure plan.

Elsewhere in today's **Federal Register**, the Agency is publishing a notice that discusses the policy for determining when RCRA facilities are unwilling to perform corrective action and therefore, should be proposed for the NPL.

III. Request for Comment on Inability Criteria

The Agency is soliciting comment today on that portion of the RCRA policy concerning the inability of an owner/operator to pay for cleaning up a RCRA-regulated site. Under the current policy, the sole financial criterion considered when an RCRA facility is proposed for the NPL is whether the owner/operator has formally invoked the protection of the bankruptcy laws. The Agency is concerned that this criterion may be unduly restrictive. It will not allow listing a site and proceeding with a CERCLA remedial action if an owner/operator has chosen not to invoke the protection of the bankruptcy laws and is willing and able to do some but not all of the cleanup work. Under such circumstances, RCRA authorities would fail to provide for complete cleanup, yet the site could not be placed on the NPL in a timely fashion.

The Agency is considering amending the RCRA policy to include an additional criterion that will allow placing an RCRA-related site on the NPL if the owner/operator is unable to pay for the cleanup proposed by EPA. EPS is also considering the possibility of allowing an RCRA facility that can demonstrate ability to pay to be deferred from the NPL.

Inability to Pay

The new inability to pay criterion that EPA is considering involves comparing the cost of the site remedy proposed by EPA with the financial viability of the owner/operator. The comparison (and subsequent listing, if appropriate) would only be made after an RCRA Facility Investigation (RFI) and Corrective Measures Study (CMS) for the facility are completed and an EPA-proposed remedy is publicly available; this would ensure that the cost of cleanup is fairly well established. EPA is proposed to place an RCRA site on the NPL if:

The estimated cost of the EPA-proposed remedy is greater than the tangible net worth of the owner/operator.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties. *See*, e.g., 40 CFR 265.141(f).

To implement such a policy, the Agency would be required to consider various types of financial information. As a general rule, the Agency is considering relying on publicly available financial information, such as Securities and Exchange Commission 10K or 10Q reports and financial information provided to State and local governments. If the information available from such sources is inadequate, the Agency is considering seeking financial information through the use of CERCLA Section 104(e). Section 104(e)(2)(C) specifically allows EPA to send information request letters relating to a person's ability to pay for or perform a cleanup of the site. EPA is requesting comment on using these sources, as well as comment on the possibility of using other information, such as that available from financial reporting firms such as Dunn & Bradstreet.

EPA believes that a comparison of tangible net worth to the cost of the EPA-proposed remedy represents the best approach, especially if EPA's selection is not appealed and thus takes effect quickly. The Agency recognizes, however, that the owner/operator or a citizen's group may successfully challenge EPA's selection, and a lower cost option—one that the facility could afford to pay—might eventually be

selected. To accommodate such situations, EPA is soliciting comment on an alternative to the criterion outlined above. Under that alternative EPA would place an RCRA site on the NPL if:

The estimated cost of a) the least expensive remedy considered in the CMS (excluding "no action"), or b) the remedy ultimately selected after any appeals, is greater than the tangible net worth of the owner/operator.

This alternative is more conservative than the first option in that it considers the possibility that the owner/operator might be able to pay for a less costly remedy than that proposed by EPA and that the less costly remedy might eventually be selected. This alternative, however, could delay listing a site until the completion of the appeal process if the remedy proposed by EPA (or a more expensive remedy) is ultimately chosen after an appeal, and the owner/operator is unable to pay for that remedy.

This alternative also excludes the "no-action" remedy from the comparison with tangible net worth. Under the NCP (40 CFR 300.68(f)(1)(v)), the Agency must, in most CERCLA cases, consider a zero-cost, "no action" remedy. RCRA guidance generally requires consideration in the CMS of similar "no-action" remedies. In such cases, the "no-action" remedy would clearly constitute the "least expensive remedy considered"; thus, no sites could be listed on the basis of inability to pay if the "no-action" remedy were considered in the comparison. As a result, the Agency believes it is appropriate to exclude the "no-action" remedy from the comparison with tangible net worth.

Ability to Pay

To supplement either of the two alternatives under consideration, EPA believes that it may be appropriate to defer the listing of an RCRA site if an owner/operator demonstrates ability to fund all cleanup costs. Therefore, EPA is proposing to defer placing an RCRA site on the NPL if:

The owner/operator posts a surety bond or letter of credit guaranteeing payment of EPA's proposed remedy.

The Agency requires similar financial instruments for assuring sufficient funds for RCRA site closure and post-closure. See 40 CFR 265.143 (b) and (c).

EPA requests comment on these criteria to determine if a site owner/operator is unable to fund cleanup costs.

Date: August 3, 1988.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 88-17926 Filed 8-8-88; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-3415-7]

The National Priorities List for Uncontrolled Hazardous Waste Sites—Criteria for Determining Unwillingness for Sites Subject to the Subtitle C Corrective Action Authorities of the Resource Conservation and Recovery Act

AGENCY: Environmental Protection Agency.

ACTION: Policy statement.

SUMMARY: The Environmental Protection Agency (EPA) is publishing a policy relating to the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), and Executive Order 12316.

CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, and contaminants throughout the United States, and that the list be revised at least annually. The National Priorities List (NPL), initially promulgated as Appendix B of the NCP on September 8, 1983, constitutes this list and meets those requirements.

Since the first NPL final rule (48 FR 40658, September 8, 1983), the Agency's policy has been to defer placing sites on the NPL that can be addressed by corrective action under Subtitle C of the Resource Conservation and Recovery Act (RCRA). This notice today discusses the Agency's policy for determining when such RCRA facilities are unwilling to perform corrective action, and therefore, should be proposed for the NPL. Relevant comments received in response to the June 10, 1986, **Federal Register** notice (51 FR 21109) that requested comment on proposed components of the NPL policy regarding RCRA-related sites will be available for public viewing at the Superfund Docket, Room LG-100, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments may be viewed by appointment only, from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays, phone (800) 424-9346 or 382-3046 in the Washington, DC metropolitan area.

Elsewhere in today's **Federal Register**, the Agency is soliciting comment on additional criteria for determining when the owner/operator of a site is considered unable to pay for addressing the contamination at a RCRA-regulated site, and therefore, the site should be proposed for the NPL.

EFFECTIVE DATE: The effective date for this policy shall be September 8, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy Parkinson, RCRA Enforcement Division, Office of Waste Programs Enforcement (WH-527), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, phone (800) 424-9346 or 382-3000 in the Washington, DC metropolitan area.

SUPPLEMENTARY INFORMATION:

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I. Introduction

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sections 9601-9657 (CERCLA or the Act), in response to the dangers of uncontrolled hazardous waste sites; CERCLA was amended in 1986 by the Superfund Amendments and Reauthorization Act (SARA). To implement CERCLA, the Environmental Protection Agency (EPA or the Agency) promulgated the revised National Oil and Hazardous Substances Contingency Plan (NCP), 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to Section 105 of CERCLA and Executive Order 12316. The NCP, further revised by EPA on September 16, 1985 (50 FR 37624), and November 20, 1985 (50 FR 47912), sets forth guidelines and procedures needed to respond under CERCLA to releases or threatened releases of hazardous substances, pollutants, or contaminants.

Section 105(a)(8)(A) of CERCLA (as amended) requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial or removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions on a short-term or temporary basis (CERCLA Section 101(23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with a permanent remedy (CERCLA Section 101(24)). The Agency developed the Hazard Ranking System (HRS) to implement CERCLA Section 105(a)(8)(A). The HRS was codified as Appendix A of the NCP on July 16, 1982 (47 FR 31219).

Section 105(a)(8)(B) of CERCLA (as amended) requires that the statutory criteria described in the HRS be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States. The list, which is Appendix B of the NCP, is the National Priorities List (NPL). Section 105(a)(8)(B) also requires that the NPL be revised at least annually. An initial NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has been amended several times since then. Currently, there are 799 sites on, and 378 sites proposed to, the NPL.

II. Contents of This Policy

A. History of the Unwillingness Policy

Since the first NPL final rule (48 FR 40658, September 8, 1983), the Agency's policy has been to defer placing on the NPL sites that could be addressed by the corrective action authorities under Subtitle C of the Resource Conservation and Recovery Act (RCRA). Until 1984, the RCRA Subtitle C corrective action authorities were limited to facilities with releases to ground water from surface impoundments, waste piles, land treatment areas, and landfills that received RCRA hazardous waste after July 26, 1982, and did not certify closure prior to January 26, 1983 (i.e., land disposal facilities addressable by an operating or post-closure permit). Sites which met these criteria were placed on the NPL only if they were abandoned, lacked sufficient resources, or RCRA Subtitle C corrective action authorities could not be enforced. Those RCRA facilities where a significant portion of the release appeared to come from a nonregulated land disposal unit were also considered appropriate for listing.

On November 8, 1984, the Hazardous and Solid Waste Amendments of 1984 (HSWA) were enacted. HSWA greatly expanded RCRA Subtitle C corrective action authorities as follows:

- Section 3004(u) requires permits issued after the enactment of HSWA to include corrective action for all releases of hazardous waste or constituents from solid waste management units at treatment, storage, or disposal facilities seeking a permit;
- Section 3004(v) requires corrective action to be taken beyond the facility boundary where necessary to protect human health and the environment unless the owner/operator of the facility demonstrates that despite the owner or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action; and
- Section 3008(h) authorizes the Administrator of EPA to issue an order

requiring corrective action or such other response measure as deemed necessary to protect human health or the environment whenever it is determined that there is or has been a release of hazardous waste into the environment from a facility with interim status.

Because the expanded Subtitle C corrective action authorities of HSWA allowed EPA to address contamination at non-regulated units of RCRA facilities, the Agency announced a draft revised policy which provided for the deferral from listing of RCRA sites unless the Agency determined that RCRA corrective action was not likely to succeed or occur promptly, due to factors such as:

- The inability or unwillingness of the owner/operator to pay for addressing the contamination at the site
- Inadequate financial responsibility guarantees to pay for such costs
- EPA or State priorities for addressing RCRA sites (50 FR 14118, April 10, 1985).

The Agency evaluated comments received on the draft policy, and on June 10, 1986 (51 FR 21059), announced its listing and deferral policy for non-Federal RCRA sites.[1] RCRA sites not subject to RCRA Subtitle C corrective action authorities would continue to be on the NPL. Some examples include:

Facilities that ceased treating, storing, or disposing of hazardous waste prior to November 19, 1980 (the effective date of Phase I of the RCRA regulations), and to which the RCRA corrective action authorities cannot be applied;

Sites at which only materials exempted from the statutory or regulatory definition of solid or hazardous waste were managed; and

RCRA hazardous waste handlers to which RCRA Subtitle C corrective action authorities do not apply, such as hazardous waste generators or transporters not required to have interim status or a final RCRA permit.

Further, the Agency stated that although sites that could be addressed by RCRA Subtitle C corrective action authorities generally would not be placed on the NPL, RCRA sites subject to corrective action should be listed in certain circumstances if the owners/operators of facilities are either unable or unwilling to take corrective action at sites. The Agency recognized that in such situations, it may be appropriate to place the sites on the NPL in order to make CERCLA funds available, if needed, for remedial action.[2]

The Agency identified three categories of sites which, although subject to RCRA Subtitle C corrective action authorities, satisfy the unwillingness or inability criteria, and thus should be placed on the NPL:

(1) Facilities owned by persons who are bankrupt;

(2) Facilities that have lost authorization to operate and for which there are indications that the owner/operator has been unwilling to undertake corrective action; and

(3) Facilities that have not lost authorization to operate, but which have a clear history of unwillingness. These situations are determined on a case-by-case basis (51 FR 21054, June 10, 1986).

Also, on June 10, 1986, the Agency solicited comments on the types of sites that may have demonstrated an unwillingness to perform corrective action (51 FR 21111). The Agency suggested that sites meeting the following criteria might be placed on the NPL under the unwillingness category:

(1) Facilities whose owners or operators have not complied adequately with an administrative order, judicial action, or a RCRA permit condition requiring response or corrective action; and

(2) Facilities whose owners or operators have not submitted or implemented an adequate closure plan.

B. Revisions to the Unwillingness Policy

Today, the Agency is announcing its decision on additional criteria to determine unwillingness. As a general matter, the Agency would prefer using available RCRA enforcement or permitting authorities to require corrective action [3] by the owner/operator at RCRA sites because this would help to conserve CERCLA resources for sites where no financially viable owner/operator is available.[4]

However, when the Agency determines that a RCRA facility owner/operator is unwilling to adequately carry out corrective action activities directed by EPA or a State pursuant to an order or permit, there is little assurance that releases will be addressed in a timely or environmentally sound manner under a RCRA order or permit. Therefore, such RCRA facilities should be listed in order to make CERCLA resources available expeditiously. RCRA facilities will be placed on the NPL based on unwillingness when owners/operators are not in compliance with one or more of the following:

- Federal or substantially equivalent State unilateral administrative order requiring corrective action, after the facility owner/operator has exhausted administrative due process rights;
- Federal or substantially equivalent State unilateral administrative order requiring corrective action, if the facility owner/operator did not pursue administrative due process rights within the specified time period;
- Initial Federal or State preliminary injunction or other judicial order requiring corrective action;
- Federal or State RCRA permit condition requiring corrective action after the facility owner/operator has exhausted administrative due process rights; or
- Final Federal or State consent decree or administrative order on consent requiring corrective action, after the exhaustion of any dispute resolution procedures.

For unilateral order authorities which do not expressly provide for administrative due process rights (e.g., RCRA Sections 7003 and 3013 and CERCLA Section 106), or for those instances where the Agency is proceeding with a civil action (e.g., under RCRA Section 3008(h)), an owner/operator who has been issued a preliminary injunction or other judicial order requiring corrective action, and is not in compliance with that order, will be considered unwilling.

These criteria clarify and expand the first of the two unwillingness criteria proposed on June 10, 1986 (51 FR 21111). After reviewing comments, the Agency decided not to consider the second of the two unwillingness criteria proposed on June 10, 1986, which related to the submittal and implementation of closure plans.

The Agency believes that the criteria announced today will provide a more objective and systematic means of determining unwillingness. Furthermore, the criteria respond to concerns that the due process rights of owners and operators should be protected. Using the new criteria, a facility owner/operator will not be declared to be unwilling

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[1] At that time, the Agency announced that it would consider at a later date whether this revised policy should apply to Federal facilities. On May 13, 1987 (52 FR 17991), the Agency announced its intent that Federal facilities should continue to be placed on the NPL regardless of their RCRA status.

[2] On June 24, 1988 (53 FR 23978), the Agency identified several other categories of RCRA facilities that are appropriate for the NPL. These facilities include converters, protective filers, non- or late-filers, and facilities with permits for the treatment, storage or disposal of hazardous waste issued prior to enactment of HSWA (where the owner/operator will not voluntarily modify the permit). Although the Agency has authority to compel RCRA corrective action at certain of these facilities (e.g., converters and non- or late-filers), the Agency has decided, for policy reasons, to clean up these sites using its CERCLA authority.

[3] For purposes of this policy, corrective action may include but not be limited to, interim measures, removal actions, studies and the implementation of corrective measures or remedial actions. An owner/operator's refusal to perform a study for example, may by itself indicate a general unwillingness to take corrective action; however, that determination should not be automatic but should be made in the broader context of the case, taking into account such factors as the extent of studies already done at the site and the reasons for requiring a study.

[4] The Agency may also decide to use CERCLA Sections 104(b) or 106 authorities at RCRA sites in order to obtain cleanup from potentially responsible parties other than the RCRA owner or operator, as appropriate. A site need not be on the NPL to use these authorities; however, a site must be on the NPL for CERCLA-funded remedial actions.

based simply on the issuance of an administrative order, for example. The owner/operator will have the opportunity to pursue administrative appeal rights, and only if the Agency's decision is upheld and the owner/operator still refuses to comply with the order, will the determination of unwillingness be made. Similarly, in a judicial order context, an owner/operator will not be declared to be unwilling until after refusal to comply with an initial judicial order requiring corrective action. The Agency believes that this approach addresses due process concerns while allowing the NPL proposal and promulgation process to continue and any corrective action deemed necessary to get underway without undue delay that could be prejudicial to the protection of human health and the environment.

III. Non-Applicability of Revised Unwillingness Criteria to RCRA Sites Currently Proposed for the NPL

There are several RCRA facilities that are currently proposed for placement on the NPL, based upon their HRS scores and EPA's determination that the owner/operators were unwilling to take corrective action at the site. For each such site, the Agency made, prior to proposal, a case-by-case determination of the owner/operator's unwillingess to perform corrective action, consistent with the Agency's policy as announced on June 10, 1986, and EPA believes that the sites are appropriate for placement on the NPL.

EPA believes it would be inappropriate to go back and reexamine such already proposed sites based on the revised unwillingness criteria in today's notice for several reasons. First, the revised unwillingness criteria had not yet been announced at the time the currently-proposed sites were evaluated for unwillingess and proposed for NPL listing. Second, the new criteria do not represent a substantive change in EPA's policy of listing unwilling RCRA sites but rather, represent an attempt at developing objective criteria that can be more easily applied and understood. (As noted above, EPA believes that the determination made for the proposed sites still satisfy the Agency's policy and goals.) Third, the Agency recognizes that the Regions and States may, in order to meet the new objective criteria, be required in the future to issue corrective action orders at many RCRA sites before determining if an owner/operator is unwilling, rather than evaluating all evidence on a case-by-case basis; some lead time needs to be allowed for the Regions and States to understand the new criteria and apply them to sites submitted to EPA Headquarters for NPL proposal. A decision to apply the new criteria to already proposed sites could significantly delay the listing and response action at those sites unnecessarily. Thus, the criteria announced today will only be applied to sites proposed after the date of this notice.

IV. Response to Public Comments

No commenters addressed the Agency's June 10, 1986, request for suggestions on additional categories of RCRA facilities that should not be deferred from listing based on unwillingness to perform corrective action.

Seven commenters provided suggestions on the notice regarding circumstances where the Agency should determine that a facility's owner/operator is unwilling to perform corrective action.

One commenter suggested that failure to reach an agreement regarding corrective action through either an order or permit within a specified amount of time should result in placing a site on the NPL. If a consent order is the mechanism to be used, the goal would be a signed, completed order within the specified time frame. If a permit is the mechanism used, then permit conditions would be agreed upon and the owner/operator would agree to withhold any challenges to those conditions when a permit is issued. Failure to reach agreement by a specified deadline would result in listing.

In response, the Agency recognizes that it is important not to delay cleanup at any sites that are deferred from listing. Setting a specified time frame for reaching an agreement regarding corrective action through a consent order before CERCLA monies would be spent could help achieve that goal.

The Agency is currently developing the guidance for determining when during the enforcement process a deferred RCRA facility should again be considered for the NPL and for a CERCLA-financed remedial investigation/feasibility study (RI/FS). This guidance will set out for the owner/operator a process for the negotiation and appeal of the order, and will specify the point at which the Agency will consider the facility for the NPL and a CERCLA-financed RI/FS. The Agency agrees with the concept that a failure to reach an agreement should result in listing. However, the Agency intends to use a set point in the appeal process to determine unwillingness instead of a set time frame, in consideration of due process appeal rights.

One commenter stated the unwillingness policy puts the owner/operator of a site in the untenable position of stating its inability or unwillingness to comply with the law that may be applicable under RCRA in order to obtain enforcement, cleanup and equitable cost sharing under CERCLA. Where financially sound potentially responsible parties (PRPs) have been identified, notified, and involved, and where activities are underway at a site pursuant to CERCLA, the policy should include a presumption that such activities proceed to completion under CERCLA.

In response, a site need not be on the NPL for CERCLA enforcement authorities to be used, and these authorities can be used to obtain cleanup from PRPs other than the owner or operator, as appropriate. The general intent of this policy is to pursue RCRA and CERCLA enforcement authorities first rather than expending Fund moneys at RCRA sites. The Agency has long maintained that both RCRA and CERCLA authorities can be used to respond at a site (see, for example, the National RCRA Corrective Action Strategy).

Two commenters suggested that the criteria to determine unwillingness clarify that unwillingness to perform corrective action includes unwillingness to comply with State-issued corrective action orders. One commenter suggested that the terms administrative order, judicial action, RCRA permit condition, and adequate closure plan be defined to include analogous actions by authorized States. The other commenter noted that in some situations the lead agency for implementing the cleanup procedures is a State agency, and that unwillingness to comply with an administrative order, judicial action, or permit condition requiring response or corrective action from the State agency is analogous to unwillingness to comply with Federal RCRA authority.

In response, the Agency has decided that unwillingness means noncompliance with State administrative orders requiring corrective action and permit conditions substantially equivalent to those under RCRA. The Agency does not believe that it is necessary to define substantially equivalent in the Federal Register. Rather, this term will be further explained in the guidance to this policy.

One commenter suggested an alternative for unwillingness would be to make all "failed" RCRA sites, i.e., those sites where RCRA enforcement may not be able to result in the desired remedy, automatically eligible for the NPL, so as to assure that appropriate remedial actions can be provided.

In response, EPA notes that the process for developing a RCRA corrective action order now provides for Interim Measures, RCRA Facility Investigations, Corrective Measure Studies, and Corrective Measure Implementations. This process is very similar to the development of a remedy under CERCLA, and will most often result in a desired remedy. The Agency believes the current policy, which allows a RCRA site to be placed on the NPL based on inability (i.e., bankruptcy) or unwillingness of the owner/operator to perform corrective action, assures that "failed" RCRA sites can be cleaned up.

One commenter suggested that where a commitment has been made to manage RCRA sites under CERCLA on a regional scale, they should continue to be handled under CERCLA. Specifically, sites that are part of an area where CERCLA funds have been used to begin regional planning and management should not be deferred from the NPL.

In response, the Agency does not agree that sites that are part of an area where CERCLA funds have been used to begin regional planning and management should be a criterion for placing sites on the NPL. The Agency's intent is to first use available enforcement authorities to secure corrective action at RCRA sites rather than expend Fund moneys. RCRA and CERCLA authorities can be used in a consistent manner to address sites on a regional scale. The Agency will, on a case-by-case basis, review the need for a comprehensive oversight strategy in cases requiring integrated CERCLA/RCRA interaction.

One commenter suggested that a RCRA site should be listed if the contamination on the property is the result of past on-site disposal of hazardous substances by a third party that was neither related to nor caused by the operation of the permittee. The commenter believes it is not appropriate to apply RCRA corrective action requirements to the current owner of a site where the basis of RCRA jurisdiction for that site is independent of the contamination caused by pre-existing disposal of hazardous substances by a third party.

In response, EPA notes that the current owner/operator under RCRA is liable for cleanup of contamination existing on the site. 40 CFR 270.72(d) states that, with the exception of financial requirements, all "interim status duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility." Therefore, the Agency does not agree that this should be a criterion for placing RCRA sites on the NPL.

One commenter believed that the mere issuance of an administrative order or the initiation of a judicial action should not serve as a criterion for unwillingness, and the failure to comply with a permit condition was less of a justification. The commenter felt such criteria encouraged a RCRA-regulated party to shift to CERCLA management in order to spread the responsibility to former customers, and to defer actual payment of cleanup costs. The commenter recognized there may be delays in awaiting a determination from an administrative law judge or a court, but that this would not be a problem in emergency situations where the Agency could use its CERCLA removal authorities (or RCRA Section 7003 authorities) without the site being on the NPL.

In response, the Agency agrees that mere issuance of an administrative order or judicial order should not automatically result in a determination of unwillingness. The criteria developed do allow for the exercise of the owner/operator's due process rights before the Agency can make a determination of unwillingness.

One commenter stated the proposed unwillingness criteria were too vague and could result in the addition of so many sites that the CERCLA program would be overwhelmed. The commenter stated that where emergency actions are needed to protect human health and the environment, they could be taken as part of a CERCLA removal action. The commenter stated the Agency should defer listing of sites subject to RCRA regulation or enforcement until final decisions on sites are made. This deferral should apply to RCRA sites that are in litigation as this could be interpreted as an effort to influence the outcome of the case.

In response, the Agency does not believe that the criteria will result in the listing of too many sites. In fact, the Agency believes the NPL/RCRA policy will result in focusing the Agency's CERCLA resources on the most appropriate sites. In addition, the Agency is adding more specificity to the criteria for determining unwillingness in this notice. The criteria for determining unwillingness do allow for the listing of a facility after an initial judicial order requiring corrective action. This criterion may result in the listing of a site currently undergoing litigation. However, the Agency believes this policy is appropriate because it strikes a balance between exercise of the owner/operator's due process rights, and the need to protect human health and the environment. Finally, the decision to use removal authorities is not constrained by these listing criteria, since removals can be conducted on any site.

V. Application of Policy to Final NPL Sites

On June 10, 1986 (51 FR 21109), the Agency stated its intent to apply the RCRA listing policy to RCRA sites that are already on the final NPL. The Agency invited the owners or operators of facilities on the proposed or final NPL, or other persons, to provide information that would assist EPA in evaluating this draft policy.

Two commenters provided suggestions on items to be considered when applying the RCRA deferral policy to final sites. One commenter provided factors which should be addressed if deletion of final sites on the NPL is considered. The factors include: the length of time the facility has been on the NPL; whether PRPs have been identified; if PRPs have not been identified, can they be; are the PRPs financially sound; have EPA or any PRP taken any actions at the facility under CERCLA, and, if so, what actions; do the size, complexity, and toxicity of the site suggest such a large response cost that CERCLA enforcement will result in a more expeditious, thorough, and cost-effective cleanup; have CERCLA monies been spent, how much, for what purpose, and for how long; will additional CERCLA expenditures be required; will CERCLA monies spent be repaid; have PRPs spent money at the site; were PRP funds spent pursuant to an enforcement order or agreement; are further PRP expenditures expected.

In response, the Agency believes that it could consider many of the factors described by the commenter to determine if the RCRA listing policy should be applied to a site on the final NPL. Factors such as these can be important in determining the extent of CERCLA involvement at a site, and whether the owner/operator of the facility is addressing the contamination at the site through the RCRA corrective action authorities.

Another commenter suggested that the criteria for deleting a final RCRA site from the NPL should not be different from those determining eligibility. Therefore, the commenter felt RCRA-regulated facilities ought to be removed

from the NPL if they no longer meet the criteria for listing, and that to do otherwise would inequitably treat already listed sites in comparison to newly proposed sites.

In response, EPA believes it may be appropriate to apply different criteria to RCRA sites that are on the final NPL, as compared to sites that have merely been proposed. For final NPL sites, the Agency has completed its listing process, CERCLA actions are underway, and the public anticipates CERCLA response. EPA does not believe that applying different criteria to final RCRA sites that may be deleted will cause any significant prejudice to any party.

Finally, the Agency received comments from two RCRA facilities currently on the NPL. Both have signed consent orders to perform a remedial investigation/feasibility study (RI/FS). One commenter indicated the facility did not want to be removed from the NPL because doing so "would only hamper the progress being made there." The other commenter indicated the facility should be allowed to complete the RI/FS currently in progress before deletion from the NPL was considered, not wanting a change in program administration to cause any delay or duplication of work underway.

In response, the Agency agrees that a change in program administration could be disruptive of work at sites where actions have already been begun.

Based on the comments received and discussions within the Agency, EPA intends to apply the RCRA deferral policy prospectively. EPA does not intend to go back and systematically review final RCRA sites on the NPL to determine whether they are being addressed through corrective action under RCRA for purposes of removing them from the final NPL. The Agency believes such a review would be time consuming, thereby detracting from more important work of the CERCLA program, and could disrupt work at sites where CERCLA actions have already begun. However, in certain limited cases where the owner/operator demonstrates that the corrective measures phase is progressing adequately under a Federal RCRA corrective action order, for example, and demonstrates that the technical and compliance schedule requirements of the RCRA order or permit are being met, it may be appropriate to remove the site from the final NPL before the cleanup is complete.

The Agency is currently reviewing how such a policy should be applied. Because the resolution of this issue could have important implications on Agency procedures and resources, EPA plans to discuss criteria for the removal of final RCRA sites in the context of the general NPL deferral policy. This general policy will be discussed in the upcoming revisions to the National Oil and Hazardous Substances Pollution Contingency Plan.

Date: August 3, 1988.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 88-17927 Filed 8-8-88; 8:45 am]

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S.J. Res. 356/Pub. L. 100-380

To provide for the extension of a temporary prohibition of strikes or lockout with respect to the Chicago and Northwestern Transportation Company labor-management dispute. (Aug. 4, 1988; 102 Stat. 896; 1 page) Price: $1.00