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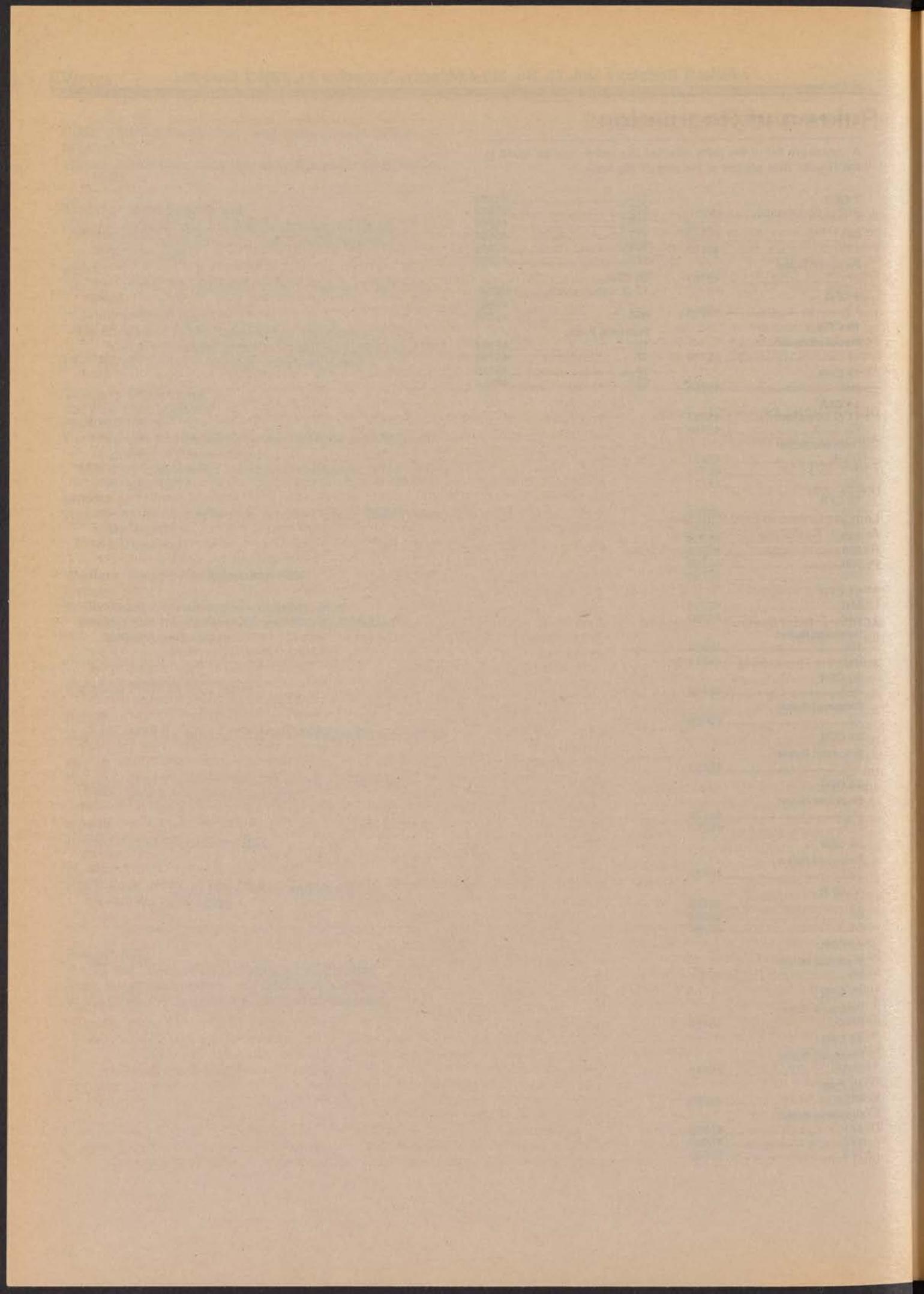
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[FV-89-003]

Lemons Grown in California and Arizona; Revisions to Rules and Regulations Regarding Allotment Loan Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule requests comments on the revision of the administrative rules and regulations established under the marketing order covering lemons grown in California and Arizona to allow the Lemon Administrative Committee (Committee), the agency responsible for local administration of the lemon marketing order, to issue special allotments to lemon handlers. The lemon marketing order allows lemon handlers, when they are unable to utilize all or a portion of their own weekly allotment, to loan such allotment to other handlers. Such loans provide for repayment to loaning handlers within one year of the loan. In some instances, loaning handlers fail to receive allotment loan repayments from borrowing handlers because such handlers have left the lemon business subsequent to receiving allotment loans and are thereby unavailable to repay the loaned allotment. Special allotments would be issued by the Committee to loaning handlers only in such instances. This action was unanimously recommended by the Committee.

EFFECTIVE DATE: November 14, 1988.

Comments which are received by December 14, 1988, will be considered prior to any finalization of this interim final rule.

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

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5120.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Order No. 910 (7 CFR Part 910), as amended, regulating the handling of lemons grown in California and Arizona. 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 interim final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

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

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

There are approximately 85 handlers of lemons subject to regulation under the lemon marketing order and approximately 2500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three fiscal

years of less than \$500,000 and agricultural service firms, which include handlers, are defined as those whose gross annual receipts are less than \$3,500,000. The majority of California-Arizona lemon producers and handlers may be classified as small entities.

Section 910.52 of the lemon marketing order authorizes the Secretary to establish, based on the recommendation of the Committee and other information, quantities of lemons which may be handled in fresh domestic markets (the United States and Canada) during any week of the fiscal year. Handlers earn the right to ship lemons to fresh domestic markets based on their prorate base, a measure of the lemons picked by them in relation to the number of lemons picked by other handlers both within their own and other districts. Their prorate bases, when applied to the level of total shipments established by the Secretary for a particular week, result in allotments issued to them by the Committee. Such allotments represent the relative number of cartons handlers may ship to fresh domestic markets during the specified week.

Section 910.59 of the order provides that, whenever prorate bases have been established and allotments have been issued to handlers, handlers may loan all or a portion of their allotment to other handlers. Handlers may enter into allotment loan agreements which require the repayment of loaned allotment within one year of the date of the loan. Loans must be reported to the Committee within 48 hours of the time when loan agreements are entered into. Allotment loans may be made between handlers within the same district or to handlers of lemons produced in another district. Inter-district loans are usually arranged directly between handlers, although the Committee may be requested to arrange the loan. Inter-district loans must be arranged by the Committee.

Paragraph (e) of § 910.59 authorizes the Committee, with the approval of the Secretary, to adopt procedural rules and regulations to effectuate allotment loan provisions. Section 910.159 of the administrative rules and regulations of the order describes procedures currently in effect. Such procedures cover topics such as loan payback dates, confirmation of loans to the Committee, the Committee's role in arranging loans, arrangements when loan requests

exceed loan offers and arrangements when loan offers exceed loan requests. The Committee has unanimously requested that this section be revised to recognize an emergency condition that has arisen in the California-Arizona lemon industry.

Currently, there are no provisions for the repayment of allotment loans to handlers who have loaned allotment to other handlers who, subsequent to borrowing allotment, cease operations in a particular lemon district or otherwise leave the lemon business by sale of their business to another handler or business failure. Unrepaid allotment loans represent a financial loss to loaning handlers. Handlers plan their business operations in anticipation of loan repayments on scheduled dates and sales may thus be lost. This is inequitable to such loaning handlers, since their prorate bases earned them the right to ship such lemons.

In the past, there have been only a minimal number of handlers who have left the lemon business with outstanding allotment loans to be repaid. However, the Committee reports that during the 1988-89 season there have been seven handlers who have ceased operating in a particular district or who have gone out of business entirely. Such handlers cumulatively left a total of 45,000 cartons (45 cars) of allotment loans outstanding and the majority of the loan repayment dates are from the beginning of October through mid-December of the current fiscal year.

Although 45 cars of allotment is not significant at the aggregate industry level, it could be quite substantial to individual handlers. Failure to receive repayment of a loan could significantly affect the operation of such handlers and could have a serious financial impact. Thus, immediate action is required to prevent individual handlers from incurring financial losses.

The Committee, at its September 20, 1988, meeting, unanimously recommended that it should be authorized to issue special allotments to those handlers who would have allotment loan repayments lost to them because the borrowing handlers ceased operations in a particular district or went out of business. The level of such special allotments should be included by the Committee in their prorate recommendations to the Secretary of the number of cartons of lemons deemed advisable to be handled by all handlers during a particular week of the fiscal year, but should not be utilized in the calculation of regular allotments to be issued to all handlers during the particular prorate week. This will prevent other handlers from being

penalized by having their level of shipments reduced by the amount of special allotment issued.

The Committee should monitor all loan arrangements and promptly notify any handler prior to the end of any prorate period when the Committee has reason to believe that a previously approved allotment loan cannot or will not be repaid by a borrowing handler. Handlers so notified by the Committee should promptly apply to the Committee by telephone or in person for repayment of the allotment loans. Handlers should provide their name, address, and the number of cartons of loan repayment requested from the Committee. This will allow the Committee to adequately evaluate the need for the issuance of special allotments during any particular prorate week.

The Committee has also recognized that the possibility exists for handlers with outstanding unpaid allotment loans to make requests to the Committee of a substantial volume of allotment loan repayments during any one week of the fiscal year. A substantial volume which needs to be repaid in any one week could result in excess supplies of lemons being made available to the fresh domestic market which could result in depressed prices and decreased returns to producers. Thus, the Committee has also recommended that the issuance of special allotments to repay allotment loans be limited to no more than 2.5 percent of the quantity recommended by the Committee to the Secretary of the total number of cartons to be handled by all handlers during a particular prorate week. Should this limitation prevent 100 percent of the loans to be repaid during a particular week, the Committee should apportion the special allotments issued among all requesting handlers so that the amount received by each requesting handler bears the same ratio to the total amount of special allotment issued as each requesting handler's average weekly pick bears to the total of all requesting handlers' average weekly picks for the particular prorate week. This will result in an equitable distribution of such special allotments. Should this procedure be necessary, the Committee should also be authorized to extend the payback periods, upon suitable notification to the handlers, to such subsequent prorate weeks as are necessary to pay back the full requested amounts.

A Notice of Recommended Decision which was published in the August 7, 1985, issue of the *Federal Register* [50 FR 31850], contained a proposal similar to the action discussed herein. That formal rulemaking proceeding covers 29 material issues and has not yet been

completed. This action does not require an amendment to the order to implement and, in light of the emergency situation currently facing the lemon industry, should not be delayed pending the outcome of that formal rulemaking proceeding.

After consideration of all available information and other available information, it is found that the amendment of § 910.159, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Based on available information, the Administrator of the AMS has determined that issuance of this interim final rule will not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 [44 U.S.C. 3594], the information collection provision that is included in this interim final rule has been approved by the Office of Management and Budget (OMB) and is assigned OMB No. 0581-0120.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* in that: (1) Allotment loans already have been entered into for the 1987-88 lemon marketing season; (2) interested persons were given an opportunity to submit information and views on this action at an open meeting; (3) handlers stand to incur financial losses in the absence of this action; and, (4) this action relieves restrictions on handlers by making more allotment available to them.

List of Subjects in 7 CFR Part 910

Arizona, California, Lemons, Marketing agreements and orders.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

For the reasons set forth in the preamble, 7 CFR Part 910 continues to read as follows:

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

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

2. Section 910.159 is amended by adding a new paragraph (c) to read as follows:

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

Subpart—Rules and Regulations

§ 910.159 Allotment Loans.

(c) *Loan repayments made by the committee.* If borrowing handlers are unable to repay any allotment loan arranged in accordance with paragraphs (a) and (b) of this section due to cessation of business or cessation of business in a particular prorate district, the committee may accept applications for repayment relief from the loaning handlers.

(1) *Notice of non-payment.* The committee shall notify the loaning handlers prior to the end of any prorate period when it has reason to believe that loans previously approved cannot or will not be repaid by the borrowing handlers for the reasons specified in this section.

(2) *Application by lender for committee repayment.* Handlers who do not receive loan repayments for the reasons specified in this section shall have the right to apply to the committee in person or by telephone for repayment. Requests for committee repayment shall be made by 12:00 noon on Monday of the prorate week following the week during which notice of non-repayment is received. Handlers should provide their name, address, and the number of cartons of loan repayment requested from the committee. On the basis of all the information available, the committee may authorize repayment of all or a portion of the allotment loan for the following prorate week: *Provided*, That the total of such repayment to all requesting handlers does not exceed 2.5 percent of the allotment established for the prorate period when the repayments are to be made.

(3) *Procedure when repayment requests exceed allowable percentage.* If the quantity of requests for repayment exceeds 2.5 percent of the allotment established for the prorate period, the repayments granted by the committee shall be apportioned among requesting handlers so that the amount received bears the same ratio to the total repayment approved as each requesting handler's average weekly pick bears to the total of average weekly picks for such prorate week of all handlers requesting repayment by the committee.

(4) *Extension of repayment.* In the event the committee is unable to make all of the allotment loan repayments requested in any prorate week, the committee may extend any repayment period, after notifying the handler of the extension, to such subsequent prorate weeks as may be necessary to make the approved repayments within the

limitations prescribed in paragraphs (c) (2) and (3) of this section.

Dated: November 9, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88-26299 Filed 11-10-88; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Reg. 639]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 639 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 300,000 cartons during the period November 13 through November 19, 1988. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 639 (§ 910.939) is effective for the period November 13 through November 19, 1988.

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

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

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

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

This regulation is issued under Marketing Order No. 910, as amended [7

CFR Part 910] regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1988-89. The Committee met publicly on November 8, 1988, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and, by a 10-2 vote, recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that the demand for lemons is good.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

2. Section 910.939 is added to read as follows:

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

§ 910.939 Lemon Regulation 639.

The quantity of lemons grown in California and Arizona which may be handled during the period November 13, 1988, through November 19, 1988, is established at 300,000 cartons.

Dated: November 9, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88-26330 Filed 11-10-88; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 984**Expenses and Assessment Rate for Walnuts Grown in California**

AGENCY: Agricultural Marketing Service.

ACTION: Final Rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 984 for the 1988-89 marketing year established under the walnut marketing order, which began August 1, 1988. The marketing order requires that the assessment rate for a particular marketing year shall apply to all walnuts certified as merchantable during such year. An annual budget of expenses was prepared by the Walnut Marketing Board (Board), the agency responsible for local administration of the walnut marketing order, and submitted to the U.S. Department of Agriculture for approval. The members of the Board are handlers and producers of walnuts. They are familiar with the Board's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The assessment rate recommended by the Board was derived by dividing the Board's anticipated expenses by the anticipated quantity of walnuts which will be certified as merchantable during the 1988-89 marketing year. Because that rate is applied to the quantity of walnuts which is actually certified as merchantable, it must be established at a rate which will produce sufficient income to pay the Board's expected expenses. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: August 1, 1988, through July 31, 1989.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456,

Room 2524-S, Washington, DC 20090-6456; telephone: (202) 447-5120.

SUPPLEMENTARY INFORMATION: This rule is issued under marketing agreement and Order No. 984 (7 CFR Part 984), both as amended, regulating the handling of walnuts 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 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 action on small entities.

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

There are approximately 60 handlers of walnuts grown in California subject to regulation under the walnut marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of 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 walnut producers and handlers may be classified as small entities.

The walnut marketing order requires that the assessment rate for a particular marketing year shall apply to all walnuts certified as merchantable during such year. An annual budget of expenses is prepared by the Board and submitted to the U.S. Department of Agriculture for approval. The members of the Board are handlers and producers of walnuts. They are familiar with the Board's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by

the Board is derived by dividing anticipated expenses by the anticipated quantity of walnuts which will be certified as merchantable during the marketing year. Because that rate is applied to the quantity of walnuts which is actually certified as merchantable, it must be established at a rate which will produce sufficient income to pay the Board's expected expenses. The recommended budget and rate of assessment is usually acted upon by the Board before October 1 of each marketing year, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Board will have funds to pay its expenses.

The Board met on September 9, 1988, and unanimously recommended 1988-89 marketing order expenditures of \$1,400,294 and an assessment rate of \$0.85 per hundredweight of walnut kernels. In comparison, 1987-88 marketing year actual expenditures were \$1,248,485 and the assessment rate was \$0.70 per hundredweight of walnut kernels. Assessment income for 1988-89 is estimated to total as much as \$1,620,303 based on an estimated crop of 190,623,890 kernelweight pounds of walnuts. Thus, estimated assessment income exceeds the recommended level of marketing order expenditures for the current year. Due to this year's crop conditions, the Board believes the actual yield of merchantable walnuts in the 1988-89 year is likely to be lower than the initial crop estimate of 190,623,890 kernelweight pounds. Thus, the assessment rate is established at a level adequate to meet the Board's anticipated expenses in the event that the total crop in the current year is less than the estimated figure. However, if the estimated yield is achieved, and there is extra income from assessments above marketing order expenditures for the year, such funds may be used temporarily by the Board during the first five months of the 1989-90 marketing year, but must be made available to the handlers from whom collected within that period.

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 would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have

a significant economic impact on a substantial number of small entities.

This action adds a new § 984.340 and is based on Board recommendations and other information. A proposed rule was published in the October 6, 1988, issue of the *Federal Register* (53 FR 39307). Comments on the proposed rule were invited from interested persons until October 17, 1988. No comments were received.

After consideration of the information and recommendations submitted by the Board and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

This budget and assessment rate should be expedited because the Board 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 Board at a 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 984

California, Marketing agreements and orders, and Walnuts.

For the reasons set forth in the preamble, a new § 984.340 is added as follows:

1. The authority citation for 7 CFR Part 984 continues to read as follows:

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

2. Add a new § 984.340 to read as follows:

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

PART 984—WALNUTS GROWN IN CALIFORNIA

§ 984.340 Expenses and assessment rate.

Expenses of \$1,400,294 by the Walnut Marketing Board are authorized, and an assessment rate of \$0.0085 per kernelweight pound of merchantable walnuts is established for the marketing year ending July 31, 1989. Unexpended funds may be used temporarily during the first five months of the subsequent marketing year, but must be made available to the handlers from whom collected within that period.

Dated: November 8, 1988.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88-26253 Filed 11-10-88; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1951

Certain Provisions of the Agricultural Credit Act of 1987 and Additional Amendments of Portions of Farmer Program Regulations

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule, Correction.

SUMMARY: Farmers Home Administration is correcting certain Attachments to Exhibit A to Subpart S of Part 1951 of its regulations to ensure that these attachments fully reflect the provisions of the new regulations.

DATES: Effective November 14, 1988. Any comments on this correction must be submitted by December 14, 1988.

ADDRESS: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250. All written comments will be available for public inspection during regular working hours at this address.

FOR FURTHER INFORMATION CONTACT:

Glenn J. Hertzler, Jr., Assistant Administrator, Farmer Program, Farmers Home Administration, USDA, Room 5019, Washington, DC 20250, Telephone: (202) 447-4671.

SUPPLEMENTARY INFORMATION: On September 14, 1988, Farmers Home Administration published an Interim Rule to implement the changes to its regulations necessary to implement the Agricultural Credit Act of 1987, with a request for comments to be submitted no later than November 14, 1988. 53 FR 35638 et seq. The new loan servicing system established in this Interim Rule contemplates that borrowers can request a meeting to consider action to cure non-monetary defaults and, at the same time, request loan servicing to correct monetary defaults (See, e.g., the discussion at 53 FR 35658-59).

The correction to the Notice (Attachment 3 to Exhibit A) set out in paragraph 2, below, is intended to make it clearer that both requests can be made at the same time, i.e., that borrowers are not obliged to choose between one or the other form of relief. The amendment to the response Notices (Attachments 4, 8, and 10 to Exhibit A) re-emphasizes this same point by reminding borrowers that they can check more than one of the boxes on the response forms.

While Farmers Home Administration is not ordinarily required by law to

publish changes to its forms when such changes are made solely to conform those forms to the provisions of its regulations, publication is being made in this instance because of the specific provisions of 7 U.S.C. 1981d(c), enacted by section 605 of the Agricultural Credit Act of 1987, which states that these notices and response forms must "be contained in the regulations implementing this title". An opportunity for further comment on these corrections is being given because of the unusual importance of the forms. These forms are also within the scope of the comments requested by Farmers Home Administration on the Interim Rule published on September 14, 1988, and final action in this matter may deal with comments made in response to that notice as well as to this one.

List of Subjects in 7 CFR Part 1951

Loan Programs—Agricultural, Rural areas.

Accordingly, the Farmers Home Administration is correcting Attachments 3, 4, 8 and 10 to Exhibit A to 7 CFR Subpart 1951-S, published September 14, 1988, 53 FR 35742-45, as follows:

PART 1951—[AMENDED]

1. The authority citation for 7 CFR Part 1951 continues to read as follows:

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

Exhibit A—Notice of the Availability of Loan Service Programs For Delinquent Farm Borrowers [Amended]

2. Correct Attachment 3 to Exhibit A, under the heading "Steps You Can Take Before FmHA Accelerates Your Loans," by adding, after the existing text, the following new text: "You can also ask for a meeting. At this meeting you can explain why you think FmHA's records, as indicated on this Notice, are wrong. You can also suggest things you can do to correct these problems, so as to avoid acceleration and foreclosure. You can request both loan servicing and a meeting at the same time. For example, if this Notice states that you are delinquent, and also have disposed of property without FmHA's written consent, you can request servicing to deal with the delinquency problem and request a meeting on the question of unauthorized disposition of property."

3. Correct Attachments 4, 8, and 10 to Exhibit A, by adding, immediately above Box (1), as it appears on each Notice, the following text: "(check one or more of the following boxes)".

Signed at Washington, DC, on November 8, 1988.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88-26246 Filed 11-10-88; 8:45 am]

BILLING CODE 3410-07-M

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg. B; Docket No. R-0646]

Equal Credit Opportunity; Preemption of New York Law

AGENCY: Board of Governors of Federal Reserve System.

ACTION: Preemption determination.

SUMMARY: The Board is publishing in final form a determination that a certain provision in New York law is inconsistent with the Equal Credit Opportunity Act and Regulation B and therefore is preempted.

EFFECTIVE DATE: November 11, 1988.

FOR FURTHER INFORMATION CONTACT:

Linda Vespereny, Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-2412; for the hearing impaired only, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

(1) General

Section 705(f) of the Equal Credit Opportunity Act authorizes the Federal Reserve Board to determine whether an inconsistency exists between a provision of the act and a state law relating to credit discrimination. If a state law is inconsistent and provides no greater protection for credit applicants than does the federal law, the state law is preempted to the extent of the inconsistency, and creditors in that state may not follow the inconsistent state requirement.

The Board received a request, made on behalf of an organization headquartered in the Republic of China, for a preemption determination concerning New York state law. The organization plans to operate a fund that will guarantee loans made to overseas Chinese residing in the United States when they borrow money from the U.S. branches of Chinese banks or from U.S. banks that have Chinese capital. The organization proposes to establish this guarantee program in keeping with provisions of the Equal Credit

Opportunity Act that permit a creditor offering a special-purpose credit program (as defined by the Board's Regulation B, which implements the act) to take into account a factor—such as national origin—whose consideration is normally barred by the act and regulation.

In response to this request the Board examined New York law, Article 15, section 296-a to determine whether its provisions are inconsistent with the ECOA and the Board's Regulation B. On July 18, 1988, the Board published a preliminary determination (53 FR 26987). In that notice, the Board proposed to preempt the New York law to the extent that it bars a creditor from offering a special-purpose credit program. One comment on the proposed determination was received during the comment on the proposed determination was received during the comment period, which closed on September 12, 1988.

The Board is now publishing a final determination regarding the New York law under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's Rules Regarding Delegation of Authority (12 CFR Part 265).

(2) Analysis of ECOA, Regulation B, and New York Law

The ECOA and Regulation B prohibit discrimination in any credit transaction on the basis of race, color, national origin, religion, sex, marital status, age, receipt of income from public assistance programs, or the good-faith exercise of any rights under the Consumer Credit Protection Act. However, § 202.8 of the regulation (which implements section 701(c) of the ECOA) permits a creditor to extend special-purpose credit and to consider one or more common characteristics of program participants (for example, race or national origin) when extending credit under these programs.

Under § 202.8, creditors are allowed to offer credit assistance programs that are authorized by federal or state law, or that are established by a not-for-profit organization, for the benefit of an economically disadvantaged class of persons. It also allows a not-for-profit organization to offer credit assistance programs for the benefit of its members. In addition, for-profit organizations may provide special-purpose credit programs to meet special social needs if the programs are administered pursuant to a written plan that identifies the class of persons the particular program is designed to benefit. As mentioned earlier, participants of these programs may be required to share one or more common characteristics, such as race or

national origin. If participants are required to possess a common characteristic, the creditor may request and consider information regarding that particular characteristic.

Under section 705 of the ECOA and § 202.11 of Regulation B, state law provisions that are inconsistent with the requirements of the act and regulation are preempted. Section 202.11(b)(1)(v) of Regulation B also provides that a state law is inconsistent with the requirements of the federal law to the extent that the state law prohibits inquires necessary to establish or administer a special-purpose credit program as defined by § 202.8.

The Board has made a comparison of New York statute section 296-a(1)(b) and (c) to regulation B's Section 202.8. The establishment of a special-purpose credit program, though permissible under the ECOA and § 202.8, is prohibited under New York law, which bars—without exception—discrimination on the basis of the race, creed, color, national origin, sex, or marital status of an applicant or of a class of applicants. Furthermore, creditors are expressly prohibited under New York law from inquiring about these characteristics.

(3) Determination and Effect of Preemption

Based on its analysis, the Board has determined that the New York law on credit discrimination is inconsistent with federal law, and that it is preempted by the ECOA and Regulation B to the extent of the inconsistency. Thus, the state of New York is barred from prohibiting special-purpose credit programs and related inquires that are permissible under federal law.

The Board makes no determination, however, as to whether any particular credit program (including the program which the party requesting this preemption determination proposes to establish) qualifies as a special-purpose credit program under the ECOA and Regulation B. As explained in comment 8(a)-1 of the official staff commentary to Regulation B (12 CFR Part 202, Supp. 1), the agency or creditor administering or offering the credit program must make that determination.

Board of Governors of the Federal Reserve System, November 4, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-26140 Filed 11-10-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-AWP-15]

Removal of Transition Area, South Kauai, HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes the transition area located at South Kauai, HI. The instrument approach serving Port Allen Airport has been cancelled. No instrument approaches are conducted to this airport. The effect of this rule is to return to public use that airspace no longer required for instrument approaches.

EFFECTIVE DATE: 0901 u.t.c., February 9, 1989.

FOR FURTHER INFORMATION CONTACT:

Daniel K. Martin, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (213) 297-0166.

SUPPLEMENTARY INFORMATION:

History

On August 31, 1988, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to remove the transition area at South Kauai, HI (53 FR 33502). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations removes the transition area at South Kauai, HI. No instrument approaches are conducted to Port Allen Airport. The airspace is being returned to public use.

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

traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

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

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

South Kauai, HI [REMOVED]

Issued in Los Angeles, California, on October 31, 1988.

Merle D. Clure,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 88-26169 Filed 11-10-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 88-ASO-17]

Revision to Transition Area, St. George, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the St. George, South Carolina, Transition Area by correcting the geographic position coordinates of the St. George Municipal Airport and deleting the arrival area extension predicated on the Indian Field (RBN) Radio Beacon. The arrival area extension was designated to afford airspace protection for a planned standard instrument approach procedure (SIAP) utilizing the RBN. The Indian Field RBN was never commissioned. Therefore, the arrival area extension is not required.

EFFECTIVE DATE: 0901 u.t.c., February 9, 1989.

FOR FURTHER INFORMATION CONTACT:

James G. Walters, Airspace Section,

Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On September 13, 1988, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the St. George, South Carolina, Transition Area (53 FR 35324). The proposed revision was to correct the geographic position coordinates of the St. George Municipal Airport and to delete the arrival area extension based on the Indian Field RBN. A NDB standard instrument approach procedure had been planned based on the RBN. However, the Indian Field RBN was never commissioned. Therefore, the arrival area extension serves no purpose and is not required for protection of IFR aeronautical operations. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6D dated January 4, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revises the St. George, South Carolina, transition area.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

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

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

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

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

§ 71.18 [Amended]

2. Section 71.181 is amended as follows:

St. George, SC [Amended]

By removing the existing description and substituting the following: "That airspace extending upward from 700' above the surface within a 5.5-mile radius of St. George Municipal Airport (Lat. 33°11'40"N; Long. 80°30'31"W).

Issued in East Point, Georgia, on November 1, 1988.

William D. Wood,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 88-26170 Filed 11-10-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 88-ACE-8]

Change to Times of Designation for Restricted Areas R-3601A and R-3601B Brookville, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action increases the published times of designation for Restricted Areas R-3601A and R-3601B Brookville, KS. Increased training requirements have resulted in expanded use of these areas through daily Notice to Airmen (NOTAM) action. This action revises the published times to reflect actual current usage and negates the need for issuing daily NOTAM's.

EFFECTIVE DATE: 0901 u.t.c., February 9, 1989.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9253.

SUPPLEMENTARY INFORMATION:**History**

On August 11, 1988, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to expand

the published times of designation for Restricted Areas R-3601A and R-3601B Brookville, KS, in order to more accurately indicate the actual times of use for these areas (53 FR 30298). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.36 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations expands the published times of designation for Restricted Areas R-3601A and R-3601B Brookville, KS. The military has increased their use of the areas requiring daily issuance of a Notice to Airmen (NOTAM) as authorized in the current time of designation. This action updates the published times of use shown on aeronautical charts and deletes the need for daily NOTAM's.

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

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

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

PART 73—SPECIAL USE AIRSPACE

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

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

§ 73.36 [Amended]

2. Section 73.36 is amended as follows:

R-3601A Brookville, KS [Amended]

By removing the present time of designation and substituting the following: Time of designation. Monday, Wednesday, Friday and Saturday, 0800 to 1800 local time; Tuesday and Thursday, 0800 to 2230 local time; other times by NOTAM 24 hours in advance.

R-3601B Brookville, KS [Amended]

By removing the present time of designation and substituting the following: Time of designation. Monday, Wednesday, Friday and Saturday, 0800 to 1800 local time; Tuesday and Thursday, 0800 to 2230 local time; other times by NOTAM 24 hours in advance.

Issued in Washington, DC, on November 3, 1988.

Harold W. Becker,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88-26171 Filed 11-10-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****18 CFR Parts 154, 157, 260, 284, 385 and 388**

[Docket No. RM87-17-000]

Availability of Revised Print Software for FERC Form Nos. 8 and 11

Issued November 7, 1988.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Availability of Revised Print Software for FERC Form Nos. 8 and 11.

SUMMARY: Revised software to print FERC Form Nos. 8 and 11 data required to be filed on an electronic medium in accordance with Order Nos. 493 (53 Fed. Reg. 15,023 (Apr. 27, 1988)) and 493-A (53 FR 30,027 (Aug. 10, 1988)) is now available. The software released today contains revisions adopted at the Order No. 493 implementation conference on September 12 and 13, 1988. In addition, certain deficiencies in the earlier version have been corrected.

DATE: The revised software is available as of November 7, 1988.

ADDRESSES: Requests for copies of the software and the accompanying documentation, if desired, should be directed to: Public Reference Branch, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 1000, Washington, DC 20426, (202) 357-8118.

FOR FURTHER INFORMATION CONTACT:

Craig Hill, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 7010, Washington, DC 20426, (202) 357-9039
or

Brooks Carter, (202) 357-8995.

SUPPLEMENTARY INFORMATION: The software programs to produce a hard copy printout of FERC Form Nos. 8 and 11, when filed in accordance with the record formats for those forms as reissued on October 7, 1988, are now available.

The programming language used for the print software is ANSI 1974 Standard COBOL. The diskette for each form contains the COBOL source code and an executable file which can be run on an IBM-compatible PC with at least 384K RAM and DOS 3.0 (or later version). Instructions on the use of the software, a test data file and a sample output file are also included on each diskette. The instructions, sample output and COBOL source code are also available on hard copy.

The software is available from the Commission's Public Reference Branch in Washington, DC. Persons requesting this software, in person or by written request, should refer to: "RM87-17-000: Print Software for FERC Form Nos. 8 and/or 11 (November 7, 1988 release)" and specify if they wish to order a copy of the diskettes, the hard copy material, or both. Although the software is available without charge, the Commission has a fee for photocopying and there is a fee of \$5.00 per diskette.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26095 Filed 11-10-88; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Plus Oxibendazole Chewable Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Norden Laboratories, Inc. The

supplement provides for an additional diethylcarbamazine/oxibendazole chewable tablet size to treat dogs for heartworms and hookworms.

EFFECTIVE DATE: November 14, 1988.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Center for Veterinary Medicine (HFV-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2871.

SUPPLEMENTARY INFORMATION: Norden Laboratories, Inc., Lincoln, NE 68501, filed supplemental NADA 136-483 providing for an additional size diethylcarbamazine citrate/oxibendazole chewable tablet. The supplement provides for a chewable tablet containing 120 milligrams (mg) of diethylcarbamazine citrate combined with 91 mg of oxibendazole. Approved are tablets containing 60 and 45 mg each and 180 and 136 mg each of diethylcarbamazine citrate with oxibendazole, respectively. The supplement is approved and the specification in 21 CFR 520.623(a) is revised to provide for the additional tablet size.

Approval of this supplement is an administrative action that did not require generation of new effectiveness or safety data. Therefore, a freedom of information summary (pursuant to 21 CFR 514.11(e)(2)(ii)) is not required.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FROM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 520.623 is amended by revising paragraph (a) to read as follows:

§ 520.623 Diethylcarbamazine citrate, oxibendazole chewable tablets.

(a) *Specifications.* Each tablet contains either 60, 120, or 180 milligrams

of diethylcarbamazine citrate with 45, 91, or 136 milligrams of oxibendazole, respectively.

Dated: November 3, 1988.

Robert C. Livingston,
Deputy Director, Office of New Animal Drug Evaluation Center for Veterinary Medicine.

[FR Doc. 88-26209 Filed 11-10-88; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Repository Corticotropin Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Anthony Products Co. The NADA provides for the use of repository corticotropin injection as a diagnostic aid to test for adrenal dysfunction in dogs and for therapeutic use to stimulate the adrenal cortex where there is a general deficiency of corticotropin (ACTH) in dogs and cats.

EFFECTIVE DATE: November 14, 1988.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Anthony Products Co., 5600 Peck Rd., Arcadia, CA 91006, filed NADA 140-583 which provides for the use of repository corticotropin injection containing 40 or 80 U.S.P. units of corticotropin per milliliter. The drug is for use by or on the order of a licensed veterinarian. The drug is used as a diagnostic aid to test for adrenal dysfunction in dogs and for therapeutic use to stimulate the adrenal cortex where there is a general deficiency of ACTH in dogs and cats. The NADA is similar to one in 21 CFR 522.480, originally approved December 17, 1952. The product was the subject of a National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Implementation (DESI) report published in the *Federal Register* of May 13, 1969 (34 FR 7621). That report found the drug effective for stimulation of the adrenal cortex where there is a general deficiency of ACTH and as a therapeutic agent for primary bovine ketosis. Approval of a

supplement reflecting compliance with the conclusions of the NAS/NRC DESI review was published April 8, 1972 (37 FR 7079). The new approval is based on the pioneer product meeting the U.S.P. standards. The NADA is approved and 21 CFR 522.480 is amended to reflect the approval. The section is also amended to reflect that the therapeutic indications for use have been reviewed by NAS/NRC and found to be effective. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) [21 CFR 514.11(e)(2)(ii)], a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 522.480 is amended by redesignating existing paragraphs (a), (b), (c), (d), (1), (2), and (3) as paragraphs (a) (1), (2), (3), (4), (4) (i), (ii), and (iii), respectively, by revising "ACTH" to read "corticotropin (ACTH)" appearing in the first sentence of newly redesignated paragraph (a)(4)(i), and by adding new paragraphs (b) and (c) to read as follows:

§ 522.480 Repository corticotropin injection.

* * * * *

(b)(1) *Specifications.* The drug conforms to repository corticotropin

injection U.S.P. It contains 40 or 80 U.S.P. units per milliliter.

(2) *Sponsor.* See No. 000864 in § 510.600(c) of this chapter.

(3) *Conditions of use.* (i) For intramuscular injection in dogs as a diagnostic aid to test for adrenal dysfunction. For intramuscular or subcutaneous injection in dogs and cats for stimulation of the adrenal cortex where there is a general deficiency of ACTH.

(ii) For diagnostic use: Administer at one unit per pound of body weight intramuscularly. For therapeutic use: Administer at one unit per pound of body weight intramuscularly or subcutaneously, initially, to be repeated as indicated.

(iii) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(c) *National Academy of Sciences/National Research Council (NAS/NRC) status.* The therapeutic indication for use has been reviewed by NAS/NRC and found to be effective. Applications for this use need not include effectiveness data as specified in § 514.111 of this chapter, but may require bioequivalency and safety information.

Dated: November 3, 1988.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 88-26159 Filed 11-10-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

Correction of Oil and Gas Royalty Valuation Regulations

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: The Minerals Management Service (MMS) is amending its final revised oil and gas product valuation regulations that were published in the *Federal Register* on January 15, 1988 (53 FR 1184 and 53 FR 1230) for technical corrections and clarification. Since adoption of the final regulations, it was discovered that several provisions were worded in a manner such that they were inconsistent with MMS's intent as discussed in the preamble to the final rules. Consequently, MMS is amending the language of those provisions to clarify MMS's intent.

EFFECTIVE DATE: November 14, 1988.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Royalty Management Program, Minerals Management Service, P.O. Box 25165, MS-662, Building 85, Denver Federal Center, Denver, Colorado 80225, telephone (303) 231-3432, (FTS) 326-3432.

SUPPLEMENTARY INFORMATION: The principal author of this final rule amendment is John L. Price of the Royalty Valuation and Standards Division of the Royalty Management Program, MMS.

I. Introduction

During a subsequent review of the revised regulations governing oil and gas product valuation that were adopted on January 15, 1988, it was discovered that several provisions were worded in a manner such that they were inconsistent with MMS's intent as discussed in the preamble to the final rules. Consequently, MMS is amending the language of those provisions with this final rulemaking action to clarify MMS's intent. The amendments are not consistent substantive and are therefore being implemented as a final rule without an opportunity for comment.

II. Section-by-Section Discussion of Amendments

Section 206.102 Valuation Standards (Oil)

In the final rule adopted at § 206.102(c)(1), MMS included the provision that if the lessee made arm's-length purchases or sales at different postings or prices, then the volume-weighted average price for the purchases or sales for the production month reported on Form MMS-2014 would be used. During discussions with industry subsequent to the publication of the final rules, it became apparent that the inclusion of the words "reported on Form MMS-2014" was confusing as to MMS's intent. Some parties questioned whether those words applied to prices reported on the Form MMS-2014 or whether they applied to the production month reported on the Form MMS-2014.

The intent, as discussed at 53 FR 1202, was that the volume-weighted average price for all purchases or sales made by the lessee during the month of production were to be used in paying its royalty. It was not intended that the lessee use the volume-weighted average of only those prices reported on the Form MMS-2014 in valuing its oil. Therefore, in an effort to remove any ambiguity in the final rules, MMS is

removing the words "reported on Form MMS-2014" from the final rule at § 206.102(c)(1).

Section 206.104 Transportation Allowances—General (Oil)

Section 206.104(a)(2) includes a reference to a contract between a Royalty-In-Kind purchaser of OCS royalty oil and "Indian lessor." Because Indians are not lessors of OCS leases, MMS is removing the words "or Indian lessor" from the end of the sentence in § 206.104(a)(2).

Section 206.105 Determination of Transportation Allowances (Oil)

As a result of comments received from States, Indians and Congress, MMS included two provisions that outline those circumstances under which values and/or transportation costs under arm's-length contracts would not be acceptable. (See §§ 206.102(b)(1)(ii) and (iii) and 206.105(a)(ii) and (iii)). As stated in the preamble to the final rules at 53 FR 1209, these provisions were to be applied to transportation allowances in essentially the same manner as they were to be applied in the determination of oil values.

Section 206.102(b)(1)(iii) includes the requirement that MMS give a lessee an opportunity to respond to preliminary determinations that its value under an arm's-length contract may be unacceptable for royalty purposes. While the provisions in § 206.105(a) were intended to be essentially identical, the requirement that MMS give a lessee an opportunity to respond before MMS made a determination that its transportation costs under an arm's-length contract were unacceptable was inadvertently omitted. The change being made adds this requirement to § 206.105(a)(1)(iii).

The final rule adopted at § 206.105(b)(5) includes the provision that allows the lessee to use as its transportation allowance, with approval, its tariff for the transportation system approved by the Federal Energy Regulatory Commission (FERC) or a State regulatory agency. The approval by MMS constitutes an exception to the requirement that the lessee compute actual costs under § 206.105(b)(1) through (b)(4). This provision was adopted in an effort to reduce the unnecessary burden to recompute costs for another government agency. However, certain protections against unreasonable high tariffs were included in the final rule.

In carrying this rationale throughout the final rules, MMS provided in § 206.105(c)(2)(viii) that a lessee authorized to use its tariff as its

transportation cost would follow the same reporting requirements used in reporting transportation allowances under arm's-length contracts. However, the final rules only specified the use of these reporting requirements when MMS approves the use of FERC-approved tariffs. It was MMS's intent that approval of the use of a State regulatory agency-approved tariff would also provide for the use of the same reporting requirements as under arm's-length contracts. Thus, § 206.105(c)(2)(viii) is being changed accordingly.

The MMS is modifying § 206.105(e)(1) to clarify MMS's intent that an allowance must be deducted on a monthly basis even though the allowance form reporting period is based on a longer period. It was not MMS's intent that a lessee could deduct the total of a yearly allowance on the January Form MMS-2014 report, deduct no allowances on the February through December Form MMS-2014 reports, and meet the requirements of the regulations. A lessee may only deduct the allowance that is applicable to the monthly volume upon which royalty is due as reported on Form MMS-2014.

Section 206.157 Determination of Transportation Allowances (Gas)

As discussed above, MMS included in the final oil valuation rules at § 206.105(b)(5) a provision allowing the use of the lessee's tariff, with certain limitations, as its transportation costs. A similar provision was also included in the final gas valuation rules at § 206.157(b)(5). However, the conditions under which MMS would deny the use of a tariff were not properly worded. The correct wording should have been identical to the wording contained in § 206.105(b)(5), as explained in the preamble to the final gas valuation regulations at 53 FR 1261. Consequently, MMS is amending § 206.157(b)(5) to reflect the provision that MMS stated that it was adopting.

The MMS is modifying § 206.157(c)(2)(viii) in the same manner and for the same reason as it modified § 206.105(c)(2)(viii), as discussed above.

The MMS is modifying § 206.157(e)(1) in the same manner and for the same reasons that it modified § 206.105(e)(1), as discussed above.

Section 206.159 Determination of Processing Allowances (Gas)

The MMS is modifying § 206.159(a)(1)(iii) by making grammatical corrections only. Two sentences will be created out of the existing one by inserting a period, and four duplicative words will be removed.

The MMS is also adding the requirement that a Schedule 1 be submitted with the Form MMS-4109 required under § 206.159(c)(1)(iii). This change conforms to the instructions contained on actual copies of Form MMS-4109.

The MMS is modifying § 206.159(e)(1) in the same manner and for the same reasons that it modified § 206.105(e)(1), as discussed above.

III. Procedural Matters

Administrative Procedure Act

The changes included in this rulemaking are technical corrections only and not substantive changes. Accordingly, pursuant to 5 U.S.C. 553(b), it has been determined that it is unnecessary to issue proposed regulations before the issuance of this final rule amendment. For the same reason, it has been determined that in accordance with 5 U.S.C. 553(d), there is good cause to make these amendments effective upon publication in the Federal Register.

Executive Order 12291

The Department of the Interior (Department) has hereby determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. This final rulemaking is to correct certain technical inaccuracies in the Federal and Indian oil and gas royalty valuation regulations that were issued on January 15, 1988 (53 FR 1184 and 53 FR 1230), and to clarify the intent of the Department under a few of the provisions of those final rules.

Regulatory Flexibility Act

Because these amendments primarily clarify existing regulations, there are no additional requirements or burdens placed upon small business entities as a result of implementation of this rule. Therefore, the Department has hereby determined that this rulemaking will not have a significant economic effect on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act. (5 U.S.C. 601 et seq.)

Paperwork Reduction Act of 1980

This rulemaking does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

National Environmental Policy Act of 1969

It is hereby determined that this rulemaking does not constitute a major

Federal action significantly affecting the quality of the human environment and a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects in 30 CFR Part 206

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

Dated: October 19, 1988.

William D. Bettenberg,

Director, Minerals Management Service.

For the reasons set out in the preamble, 30 CFR Part 206 is amended as follows:

PART 206—PRODUCT VALUATION

1. The authority citation for Part 206 is revised to read as follows:

Authority: 25 U.S.C. 396 et seq.; 25 U.S.C. 396a et seq.; 25 U.S.C. 2101 et seq.; 30 U.S.C. 181 et seq.; 30 U.S.C. 351 et seq.; 30 U.S.C. 1001 et seq.; 30 U.S.C. 1701 et seq.; 31 U.S.C. 9701; 43 U.S.C. 1301 et seq.; 43 U.S.C. 1331 et seq.; and 43 U.S.C. 1801 et seq.

2. Paragraph (c)(1) of § 206.102 under Subpart C is amended by removing the words "reported on Form MMS-2014" from the last sentence. The revised last sentence reads as follows:

§ 206.102 Valuation standards.

(c) * * *
 (1) * * * If the lessee makes arm's-length purchases or sales at different postings or prices, then the volume-weighted average price for the purchases or sales for the production month will be used;

3. Paragraph (a)(2) of § 206.104 under Subpart C is amended by removing the words "or Indian lessor" from the end of the sentence. The revised sentence reads as follows:

§ 206.104 Transportation allowances—general.

(a) * * *
 (2) Transport oil from an offshore lease to the point off the lease; provided, however, that for oil taken as RIK, a transportation allowance shall be provided for the reasonable actual costs incurred to transport that oil to the delivery point specified in the contract between the RIK oil purchaser and the Federal Government.

4. Section 206.105 under Subpart C is amended by adding a new last sentence

to paragraph (a)(1)(iii), and revising paragraphs (c)(2)(viii) and (e)(1). The revised paragraphs read as follows:

§ 206.105 Determination of transportation allowances.

(a) * * *
 (1) * * *
 (iii) * * * When MMS determines that the value of the transportation may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's transportation costs.

(c) * * *
 (2) * * *
 (viii) If the lessee is authorized to use its FERC-approved or State regulatory agency-approved tariff as its transportation cost in accordance with paragraph (b)(5) of this section, it shall follow the reporting requirements of paragraph (c)(1) of this section.

(e) *Adjustments.* (1) If the actual transportation allowance is less than the amount the lessee has taken on Form MMS-2014 for each month during the allowance form reporting period, the lessee shall be required to pay additional royalties due plus interest computed pursuant to 30 CFR 218.54, retroactive to the first day of the first month the lessee is authorized to deduct a transportation allowance. If the actual transportation allowance is greater than the amount the lessee has taken on Form MMS-2014 for each month during the allowance form reporting period, the lessee shall be entitled to a credit without interest.

5. Section 206.157 under Subpart D is amended by revising paragraphs (b)(5), (c)(2)(viii), and (e)(1). The revised paragraphs read as follows:

§ 206.157 Determination of transportation allowances.

(b) * * *
 (5) A lessee may apply to the MMS for an exception from the requirement that it compute actual costs in accordance with paragraphs (b)(1) through (b)(4) of this section. The MMS will grant the exception only if the lessee has a tariff for the transportation system approved by the Federal Energy Regulatory Commission (FERC) (for both Federal and Indian leases) or a State regulatory agency (for Federal leases). The MMS shall deny the exception request if it determines that the tariff is excessive as compared to arm's-length transportation charges by pipelines, owned by the lessee or others, providing similar

transportation services in that area. If there are no arm's-length transportation charges, MMS shall deny the exception request if: (i) No FERC or State regulatory agency cost analysis exists and the FERC or State regulatory agency, as applicable, has declined to investigate pursuant to MMS timely objections upon filing; and (ii) the tariff significantly exceeds the lessee's actual costs for transportation as determined under this section.

(c) * * *
 (2) * * *
 (viii) If the lessee is authorized to use its FERC-approved or State regulatory agency-approved tariff as its transportation cost in accordance with paragraph (b)(5) of this section, it shall follow the reporting requirements of paragraph (c)(1) of this section.

(e) *Adjustments.* (1) If the actual transportation allowance is less than the amount the lessee has taken on Form MMS-2014 for each month during the allowance form reporting period, the lessee shall be required to pay additional royalties due plus interest computed pursuant to 30 CFR 218.54, retroactive to the first day of the first month the lessee is authorized to deduct a transportation allowance. If the actual transportation allowance is greater than the amount the lessee has taken on Form MMS-2014 for each month during the allowance form reporting period, the lessee shall be entitled to a credit without interest.

6. Section 206.159 under Subpart D is amended by revising paragraphs (a)(1)(iii) and (e)(1), and adding the words "and Schedule 1" after MMS-4109 in paragraph (c)(1)(iii). The revised paragraphs read as follows:

§ 206.159 Determination of processing allowances.

(a) * * *
 (1) * * *
 (iii) If MMS determines that the consideration paid pursuant to an arm's-length processing contract does not reflect the reasonable value of the processing because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and lessor, then MMS shall require that the processing allowance be determined in accordance with paragraph (b) of this section. When MMS determines that the value of the processing may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written

information justifying the lessee's processing costs.

(c) * * *

(1) * * *

(iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page 1 of Form MMS-4109 (and Schedule 1) within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).

(e) *Adjustments.* (1) If the actual gas processing allowance is less than the amount the lessee has taken on Form MMS-2014 for each month during the allowance reporting period, the lessee shall be required to pay additional royalties due plus interest computed pursuant to 30 CFR 218.54, retroactive to the first day of the first month the lessee is authorized to deduct a processing allowance. If the actual processing allowance is greater than the amount the lessee has taken on Form MMS-2014 for each month during the allowance period, the lessee shall be entitled to a credit without interest.

[FR Doc. 88-26175 Filed 11-10-88; 8:45 am]
BILLING CODE 4310-MR-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3474-2]

Approval and Promulgation of State Implementation Plan; North Dakota; Stack Height Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving stack height regulations for the State of North Dakota which were submitted by the Governor on January 26, 1988. The State submittal is in response to EPA's July 8, 1985, stack height regulation promulgation. The July 8, 1985, stack height regulations were challenged by the Natural Resource Defense Council (NRDC) and resulted in the remand of three provisions of the regulations to EPA for reconsideration. The remand is not believed to significantly affect the North Dakota submittal. EPA's approval is given with the understanding that should EPA promulgate revisions to the stack height regulations as a result of

the remand, the State will and has agreed to modify its regulations accordingly.

DATES: This action will be effective on January 13, 1989, unless notice is received by December 14, 1988, that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following offices:

Environmental Protection Agency,
Region VIII, Air Programs Branch, 999
18th Street, Suite 500, Denver,
Colorado 80202-2405.

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

FOR FURTHER INFORMATION CONTACT:
Laurie Ostrand, Air Programs Branch,
Environmental Protection Agency, 999
18th Street, Suite 500, Denver, Colorado
80202-2405, (303) 293-1764, (FTS)
564-1764.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 1982 (47 FR 5864), EPA promulgated final regulations limiting stack height credits and other dispersion techniques as required by section 123 of the Clean Air Act (CAA). These regulations were challenged in the Courts for the next two years and resulted in revisions to the stack height regulations. The revisions were promulgated on July 8, 1985 (50 FR 27892), and redefined a number of specific terms including "excessive concentrations", "dispersion techniques", "nearby", and other important concepts. The Federal regulations also modified some of the bases for determining good engineering practice (GEP) for stack height.

The July 8, 1985, promulgation required the State to (1) review and revise, as necessary, its State Implementation Plan (SIP) to include provisions that limit stack height credit and dispersion techniques in accordance with the revised regulations, and (2) review all existing emission limitations to determine whether any of these limitations have been affected by stack height credits above GEP or any other dispersion techniques. This action only pertains to item (1) above, revised regulations.

Stack Height Regulations

On April 18, 1986, Mr. Dana Mount, Division Director of Environmental Engineering, North Dakota Department of Health, submitted a letter of commitment to comply with the July 8,

1985, regulation requirement in all future State actions, new source reviews, and PSD actions.

In 53 FR 3052 (February 3, 1988), EPA acknowledged the commitment from North Dakota to comply with the Federal stack height regulations until the State adopted the required regulations and such revisions were approved by EPA.

On January 26, 1988, the Governor of North Dakota submitted "Revisions to the Implementation Plan for the Control of Air Pollution for the State of North Dakota". The submittal included the addition of and revision to several Air Pollution Control Rules and Regulations. This action pertains only to the addition of Chapter 33-15-18, Stack Heights.

Chapter 33-15-18 was added to North Dakota's rules and regulations effective October 1, 1987. This Chapter meets all the requirements of 40 CFR Part 51.118 and contains all necessary definitions relating to stack heights found in 40 CFR Part 51.100 (i.e., stack in existence, dispersion technique, excessive concentration, good engineering practice, nearby and stack) except "emission limitation/emission standard". North Dakota's definition of "emission standard" can be found in the North Dakota Air Pollution Control law, North Dakota Century Code (NCC), Chapter 23-25, Air Pollution Control. Although the definition of "emission standard" in NCC, Chapter 23-25, is not identical to that found in 40 CFR Part 51.100, it has the same intent. That is North Dakota has regulations that limit the emissions of air contaminants into the ambient air:

Chapter

- 33-15-03 Restriction of Emission of Visible Air Contaminants;
- 33-15-04 Open Burning Restrictions;
- 33-15-05 Emissions of Particulate Matter Restricted;
- 33-15-06 Emissions of Sulfur Compounds Restricted;
- 33-15-07 Control of Organic Compounds Emissions;
- 33-15-08 Control of Air Pollution from Vehicles and Other Internal Combustion Engines;
- 33-15-09 Emission of Certain Settleable Acids and Alkaline Substances Restricted; and
- 33-15-10 Control of Pesticides;
- 33-15-12 Standards of Performance for New Stationary Sources; and
- 33-15-13 Emission Standards for Hazardous Air Pollutants.

Immediately following promulgation, the July 8, 1985, regulations were challenged by the NRDC. On January 22, 1988, the U.S. Appeals Court for the D.C.

Circuit issued its decision in the *NRDC v. Thomas* case (838 F.2d 1224) affirming the stack height regulations for the most part, but remanding three provisions to the EPA for reconsideration. These are:

1. Grandfathering pre-October 11, 1983, within-formula stack height increases from demonstration requirements [40 CFR 51.100(kk)(2)];
2. Dispersion credit for sources originally designed and constructed with merged or multiflue stacks [40 CFR 51.100(hh)(2)(ii)(A)]; and
3. Grandfathering pre-1979 use of the refined H + 1.5L formula [40 CFR 51.100(ii)(2)].

The remand is not believed to significantly affect the North Dakota submittal. EPA's approval is given with the understanding that should EPA promulgate revisions to the stack height regulations as a result of the remand, the State will modify its regulations accordingly. In a letter dated May 11, 1988, Dana Mount, Division Director of Environmental Engineering, committed to revise North Dakota's stack height regulations should the remand result in changes to the July 8, 1985, Federal stack height regulations. EPA interprets this to mean that should the regulations be revised, any permits issued in the interim that would be affected, will be revised accordingly. Such interpretation was confirmed with Dana Mount in a verbal discussion on July 8, 1988.

Final Action

EPA finds that the North Dakota stack height regulations satisfy 40 CFR Part 51. This action is a revision to an approved new source review program. Also, in view of the partial remand situation EPA is approving the State's regulation with the understanding that at such time as EPA modifies its regulations in response to the NRDC remand, the State must change its regulations and any affected permits to comply accordingly.

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 60 days from the date of the Federal Register 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. Once 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 January 13, 1989.

EPA finds that good cause exists for making the action taken in this notice immediately effective because the implementation plan revisions are already in effect under State law or regulation and EPA's approval poses no additional regulatory burden.

Under 5 U.S.C. section 805(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from publication). This action may not be challenged later in proceedings to enforce its requirements (See CAA Section 307(b)(2)).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Sulfur oxides, Nitrogen dioxide, Particulate matter, Carbon monoxide, Stack height, Incorporation by reference.

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

Date: November 2, 1988.

Lee M. Thomas,
Administrator.

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

Subpart JJ—North Dakota

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

Authority: 42 U.S.C. 7401—7642.

2. Section 52.1820 is amended by adding paragraph (c)(16) to read as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

(16) On January 26, 1988, the Governor submitted a plan adding Stack Height Regulations, Chapter 33-15-18.

(i) Incorporation by reference.

(A) Addition to North Dakota Air Pollution Control Rules Chapter 33-15-18, Stack Heights, was adopted on July 21, 1987 and effective on October 1, 1987.

3. Add a new § 52.1832 to read as follows:

§ 52.1832 Stack height regulations.

The State of North Dakota has committed to revise its stack height regulations should EPA complete rulemaking to respond to the decision in *NRDC v. Thomas*, 838 F. 2d 1224 (D.C. Cir. 1988). In a letter to Douglas M. Skie, EPA, dated May 11, 1988, Dana K. Mount, Director, Division of Environmental Engineering stated:

* * * We are submitting this letter to allow EPA to continue to process our current SIP submittal with the understanding that if EPA's response to the NRDC remand modified the July 8, 1985, regulations, EPA will notify the State of the rules that must be changed to comply with EPA's modified requirements. The State of North Dakota agrees to make the appropriate changes to its stack height rules.

[FR Doc. 88-25928 Filed 11-10-88; 8:45 am]

BILLING CODE 8560-50-M

40 CFR Parts 60 and 61

[FRL-3475-6]

Standards for Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP); Delegation of Authority to the State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: This notice announces an expansion of previously-issued delegations of authority for the implementation and enforcement of the federal Standards of Performance for New Stationary Sources (NSPS), 40 CFR Part 60, and the federal National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR Part 61. The action which involved the EPA Region VII office and the State of Missouri added the standards that are set forth in eight (8) NSPS and three (3) NESHAP Subparts to the NSPS and the NESHAP delegations of authority. The delegations now include many source categories and/or pollutants for which federal standards have been promulgated by the agency through July 1, 1987.

EFFECTIVE DATE: November 14, 1988.

ADDRESSES: All requests, reports, applications, submittals and such other communications which are required to be submitted under 40 CFR Part 60 or Part 61 (including the notifications required to be submitted under Subpart A of said regulations) for affected

facilities or activities in Missouri should be sent to the Missouri Department of Natural Resources (MDNR), P.O. Box 176, Jefferson City, Missouri 65102. A copy of all Subpart A related notifications concerning said facilities or activities must also be sent to the attention of the Director, Air and Toxics Division, U.S. EPA, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT:

Charles W. Whitmore, Chief, Air Compliance Section, Air Branch, U.S. EPA, Region VII, at the above address (913/236-2896 or FTS: 757-2896).

SUPPLEMENTARY INFORMATION: Sections 111(c) and 112(d) of the Clean Air Act allow the Administrator of the Environmental Protection Agency (i.e., EPA or the agency) to delegate to any state government concurrent authority to implement and enforce the standards promulgated by the agency under 40 CFR Part 60 and 40 CFR Part 61, respectively. When a delegation is issued, the agency retains concurrent authority to implement and enforce the delegated standards. The delegation basically shifts the primary responsibility for implementation and enforcement of the standards from the agency to the state government. In general, the NSPS regulations are "source category" oriented. The NESHAP regulations are "pollutant" oriented.

On October 29, 1984, the EPA regional office and the State of Missouri entered into a delegation of authority agreement whereby the state would automatically receive concurrent authority to implement and enforce federal NSPS and NESHAP standards and the delegable provisions relating to said standards upon the adoption of the standards by the state government (see 50 FR 933).

Prior to October 29, 1984, Missouri was delegated authority to implement and enforce the standards for numerous source categories and pollutants in various delegation and expansion of authority actions. These previous delegation and expansion of authority actions are not affected by the action described below.

Missouri recently updated its rules to incorporate, by reference, the provisions of 40 CFR Part 60 and Part 61 as in effect on July 1, 1987, except with regard to certain specified provisions, source categories and/or pollutants. The updating action, in effect, incorporated the standards for eight (8) additional NSPS source categories and for three (3) additional NESHAP pollutants that were promulgated by the agency over a three

(3) year period. The effective date of the state's updating action was June 27, 1988. The MDNR informed the agency of its updating actions in a letter to the EPA regional office dated July 20, 1988.

The agency subsequently acknowledged the state's updating actions and the concurrent automatic expansion of the delegations of authority in a letter to MDNR dated October 3, 1988. The extension of authority occurred under the terms of the above-mentioned October 29, 1984, automatic delegation of authority agreement.

Interested individuals are informed that, as of June 27, 1988, the State of Missouri has EPA's authorization to implement and enforce the federally-established standards for the following additional source categories and/or pollutants.

NSPS

Subpart Db—Industrial/Commercial/Institutional Steam Generating Units;

Subpart Kb—Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984;

Subpart Na—Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction Is Commenced After January 20, 1983;

Subpart AAa—Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983;

Subpart JJJ—Petroleum Dry Cleaners;

Subpart KKK—Equipment Leaks of VOC from Onshore Natural Gas Processing Plants;

Subpart LLL—Onshore Natural Gas Processing: SO₂ Emissions; and,

Subpart PPP—Wool Fiberglass Insulation Manufacturing Plants.

NESHAP

Subpart N—Inorganic Arsenic Emissions from Glass Manufacturing Plants;

Subpart O—Inorganic Arsenic Emissions from Primary Copper Smelters; and,

Subpart P—Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

Effective immediately, all reports, correspondence, and such other communications that are required to be submitted under the NSPS or NESHAP regulation for facilities or activities in Missouri affected by the amended delegations of authority should be sent to the Missouri Department of Natural Resources at the above address rather

than to the EPA Region VII office, *except* as noted below.

A copy of each notification required to be submitted under Subpart A of 40 CFR Part 60 or Part 61, must *also* be sent to the attention of the Director, Air and Toxics Division, U.S. EPA Region VII, at the above address.

Each document and letter mentioned in this notice is available for public inspection at the Air Branch office of the EPA regional office.

This notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 7411 and 7412).

Date: October 24, 1988.

Morris Kay,

Regional Administrator.

[FR Doc. 88-26213 Filed 11-10-88; 8:45 am]

BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1152

[Ex Parte No. 274 (Sub-No. 11)]

Abandonment Regulations; Costing

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission adopts a technical revision to its final rules governing the calculation of opportunity cost in abandonment proceedings (and return on investment in subsidy proceedings). Specifically, the revised rules would recognize income tax liabilities, if any, in the determination of the investment base used to compute opportunity cost and return on investment. This rule change is being implemented without notice and comment, since it has already been approved (but never implemented) in an earlier decision in this proceeding. *See Abandonment Regulations—Costing, 3 I.C.C.2d 340 (1987) [Ex Parte No. 274 (Sub-No. 11)].*

EFFECTIVE DATE: The rules are effective December 14, 1988.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 275-7489, [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: The revised rules are set forth below.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pickup in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202)

289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275-1721.]

The rule modifications will not have a significant economic impact on a substantial number of small entities. Nor will this action significantly affect either the quality of the human environment or energy conservation.

List of Subjects in 49 CFR Part 1152

Administrative practices and procedure, Railroads, reporting and recordkeeping requirements, Uniform system of accounts, Abandonment and discontinuances, Investigations, Public use conditions, Environmental protection, National trail system, National resources, Recreation and recreation areas.

Decided: October 28, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Simmons, Lamboley, and Phillips. Commissioner Lamboley concurred in the result.

Noreta R. McGee,
Secretary.

Title 49, Subtitle B, Chapter X, Part 1152 of the Code of Federal Regulations is amended as follows:

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903.

1. The authority citation for 49 CFR Part 1152 is revised to read as follows:

Authority: 5 U.S.C. 553, 559 and 704; 11 U.S.C. 1170; 16 U.S.C. 1247(d); and 49 U.S.C. 10321, 10362, 10505, 10903, 11161, 11162, 11163, *et seq.*

2. Section 1152.34 is amended by revising paragraph (c)(1)(ii) to read as follows:

§ 1152.34 Return on investment

(c) * * *
(1) * * *

(ii) The amount of current income tax benefits resulting from abandonment of the line which would have been applicable to the period of the subsidy agreement. (Conversely, if the railroad would incur an income tax liability from abandonment, the liability should be deducted from the investment base.) This information is to be furnished by the railroad and subject to audit by the person offering the subsidy.

* * * * *
[FR Doc. 88-26233 Filed 11-10-88; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 53, No. 219

Monday, November 14, 1988

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 971

Texas Lettuce; Proposed Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA,

ACTION: Proposed rule.

SUMMARY: This proposed rule regarding Texas lettuce would authorize expenses and establish an assessment rate under Marketing Order 971 for the 1988-89 fiscal period. Authorization of this budget would allow the South Texas Lettuce Committee to incur expenses reasonable and necessary to administer the program. Funds for this program would be derived from assessments on handlers.

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

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

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

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 971 (7 CFR Part 971), regulating the handling of lettuce grown in the Lower Rio Grande Valley of South Texas. This order is effective under the Agricultural Marketing Agreement Act of 1973, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

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

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

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

There are approximately 10 handlers of Texas lettuce under this marketing order, and approximately 15 producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 21.2) 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.

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

The assessment rate recommended by the committee is derived by dividing anticipated expenses by expected shipments of lettuce. 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. A recommended budget and rate of assessment is usually acted upon by the committee before the season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approval must be expedited so that the committee will have funds to pay its expenses.

The South Texas Lettuce Committee met on October 11, 1988, and unanimously recommended a 1988-89 budget of \$34,305. The additional \$942 over last season's budget of \$33,363 would cover increases in the items of rent and utilities, insurance and bonds, and accounting and audit. The committee recommended an assessment rate of \$0.05 per carton, the same as last year. This rate, when applied to anticipated shipments of 750,000 cartons, would yield \$37,500 in assessment revenue. The surplus income of \$3,195 would be added to the current program reserve of \$42,000, resulting in an ending reserve of \$45,195, an amount within the maximum authorized under the order of three years' expenses.

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

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

List of Subjects in 7 CFR Part 971

Marketing agreements and orders, Lettuce (Texas).

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 971 be amended as follows:

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

1. The authority citation for 7 CFR Part 971 continues to read as follows:

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

2. Section 971.228 is added to read as follows:

§ 971.228 Expenses and assessment rate.

Expenses of \$34,305 by the South Texas Lettuce Committee are authorized and an assessment rate of \$0.05 per carton of lettuce is established for the fiscal period ending July 31, 1989. Unexpended funds may be carried over as a reserve.

Dated: November 8, 1988.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88-26252 Filed 11-10-88; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 19

Sequestration of Witnesses Interviewed Under Subpoena

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to provide that all persons compelled to appear before NRC representatives under subpoena in connection with an agency investigation (and their counsel, if any) shall, unless otherwise authorized by the NRC official conducting the investigation, be sequestered from other interviewees in the same investigation. The proposed action is necessary because the NRC has encountered difficulties in conducting investigative interviews in an atmosphere free of outside influences. The proposed rule is intended to clarify and delineate the rights and responsibilities of the agency, interviewees and licensees during the conduct of agency investigations and inspections. The proposed amendments are not expected to have any economic impact on the NRC or its licensees.

DATES: Comment period expires January 10, 1989. Comments received after this date will be considered if it is practical to do so, but the Commission can only assure consideration of those comments received on or before that date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: 2120 L Street NW., Washington, DC, between 7:30 a.m. and 4:15 p.m., Monday through Friday.

Comments received may be examined at: the NRC Public Document Room at 2120 L Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carolyn F. Evans, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492-1632.

SUPPLEMENTARY INFORMATION: The Commission is aware of the confusion that has arisen regarding who can attend investigative interviews of individuals which are conducted by NRC inspectors or investigators. See, e.g., *Metropolitan Edison Company* (Three Mile Island Nuclear Station, Unit 1), LBP-82-34B, 15 NRC 918, 990-93 (1982) (discusses the question of whether an interviewee may have a representative of company management present during investigative interview). As a general matter, a person has a right to be accompanied by counsel or any other individual the person desires during a voluntary interview by NRC representatives. *Id.* The investigator may either accept the individual's conditions for submitting to the voluntary interview or decline the interview. However, absent a subpoena, no person is required to submit to an NRC interview. Thus, to the extent the existence and scope of one's right to be accompanied by counsel or other representative becomes an issue, it is in the context of an interview compelled by administrative subpoena issued pursuant to 42 U.S.C. 2201(c). In these cases, section 6(a) of the Administrative Procedure Act (APA), 5 U.S.C. 555(b), provides that the interviewee "is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative."

Questions concerning the scope of an interviewee's right to be accompanied by counsel or others, born out of the absence of clear Commission policy on the issue and the lack of clearly developed judicial guidelines, have been raised in essentially three ways. First, in several instances, an interviewee's employer has sought to arrange for a management representative to attend NRC interviews of its employees. Second, the employer has provided corporate counsel, either unilaterally or with the agreement of the employee, to

represent all employees during an NRC interview. Third, an employer has offered to provide its employees, free of charge, non-corporate counsel initially selected by management or independently retained by the individual employee.

Where interviewee is a member of the employer's corporate control group, the presence of corporate counsel at an NRC interview is, except in extraordinary circumstances, not objectionable. Similarly, the fact that an employer has agreed to pay the fees of employee selected, non-corporate counsel should generally be of no concern to the investigative staff unless the fee reimbursement agreement, on its face or in operation, acts as an improper restraint on the employee's potential candor. However, where corporate counsel seeks to represent non-management employees during an NRC investigation, or where the employer effectively selects the employee's non-corporate counsel, the potential for conflicts of interest among counsel's multiple clients in responding fully and candidly to the inquiries of the agency and the potential impairment to the efficacy of the NRC investigation become a paramount concern.

In most cases, attempts to interject a corporate presence into investigative interviews of the non-management employees of a licensee or applicant have been satisfactorily resolved through negotiation between company management and NRC staff. However, such ad hoc negotiations have led to unnecessary delay in completing NRC investigations. In order to clearly delineate the rights of individual interviewees, the legitimate interests of the company or licensee, and the responsibilities of the NRC to ensure the public health and safety, the Commission believes it appropriate to announce general guidance to be followed in this area.

The Commission believes as a matter of policy that investigative interviews should be conducted in an atmosphere free of outside influences. The Commission is aware that management has a legitimate interest in NRC inspections and investigations in order to detect and correct any violations of NRC regulations. Moreover, since the policy of the Commission is to hold the licensee or applicant liable for the acts and omissions of its employees and contractors, the licensee or applicant normally has a corporate or financial interest in the outcome of the investigation. Nevertheless, the Commission believes that the purpose of its inspections and investigations (to

protect the public health and safety by identifying unsafe practices and violations of Commission regulations and the Atomic Energy Act), and its interest in ensuring the integrity of the agency's factual findings and regulatory conclusions from such efforts would be better served by excluding all persons from the interview except for the interviewee's counsel.

In cases where dual representation is an issue, the Commission believes that exclusion of the particular counsel chosen by or for the interviewee might be warranted. Where the person being interviewed chooses to be represented by counsel for the licensee or applicant, an inherent potential for a conflict of interest and impairment of the NRC's investigation exists. The Commission recognizes, however, that the attorney can ethically represent multiple clients if he or she fully discloses the potential conflict to the clients and they individually assent to the multiple representation. Such disclosure between counsel and client does not always eliminate or reduce the inherent potential that the multiple representation could impair or impede the Commission's investigation. Dual representation of both the interviewee and the licensee or applicant could permit the subject of the investigation to learn, through counsel, the direction and scope of the investigation. The subject could then take steps to structure the flow of information to the NRC or otherwise impede the investigation. Indeed, in three recent cases where the company offered its own attorney to potential witnesses, the attorney stated prior to any interview that he would relate to the company all that took place in the interviews. This produces an inherent coercion on the interviewee not to reveal to the NRC information that is potentially detrimental to his employer. Moreover, should the agency official conducting the investigation determine that an offer of confidentiality to an interviewee is warranted, the purpose for confidentiality could be undermined simply by the presence of counsel who represents other interviewees or the subject of the investigation.

For these reasons, the Commission believes that dual representation could prove detrimental to NRC investigations. Accordingly, the proposed rule provides that where the agency official conducting the investigation determines after consultation with the Office of the General Counsel that there is a reasonable basis to believe that the attendance of a particular attorney might prejudice, impede, or impair the investigation by reason of that

attorney's dual representation of other interests, the particular attorney may be excluded from the interview. The proposed rule further provides that where an interviewee's counsel is excluded and the interviewee is not given reasonable prior notice of an intent to exclude counsel, the interview may be delayed at the interviewee's option for a reasonable period to permit the retention of other counsel. The "reasonable prior notice" standard contemplates affording the interviewee sufficient time in advance of his/her interview to retain new counsel, e.g., one week. The Commission believes that the interest in ensuring the health and safety of the public through vigorous probing of possible regulatory violations justifies the somewhat minor burden on an individual's right to be accompanied by a particular counsel.

Several district courts have upheld an agency's power to exclude a witness' attorney from an investigative interview where the attorney also represented the person under investigation. See *United States v. Steel*, 238 F. Supp. 575 (S.D.N.Y. 1965); *Torras v. Stradley*, 103 F. Supp. 737 (N.D. Ga. 1952); *United States v. Smith*, 87 F. Supp. 293 (D. Conn. 1949). One circuit court considering this issue however, reversed a district court decision that held the Internal Revenue Service could deny a third party witness the right to be accompanied by counsel for the taxpayer under investigation. *Backer v. Commissioners of Internal Revenue*, 275 F.2d 141 (5th Cir. 1960). That court, however, which indicated that a witness has a right to the counsel of his choice, did not decide whether that right could be limited or otherwise qualified through formal rule-making procedures. Two other circuit court decisions, involving the Securities and Exchange Commission's sequestration rule, have also indicated that the terminology of 5 U.S.C. 555(a) means counsel of one's choice. *SEC v. Csapo*, 533 F.2d 7 (D.C. Cir. 1976); *SEC v. Higashi*, 359 F.2d 550 (9th Cir. 1966). Both of those courts, however, indicated that there could be circumstances where an attorney could be barred from the interview, although it could not be done under the facts of those cases.

With this guidance in mind, the Commission realizes that no absolute criteria can be established for determining when the NRC may exclude an interviewee's attorney where the attorney is also counsel for the licensee, applicant, or other organization under investigation. The Commission believes however, that dual representation of interviewees and licensees should be prevented wherever circumstances

require this. An appropriate rule would grant the NRC office conducting the interview the discretion to determine whether the attorney should be allowed to attend the interview. Some factors, which in conjunction with other circumstances may justify exclusion include: (1) Whether the company under investigation suggested that the witness employ the particular counsel and is paying the fee; (2) whether there might be a divergence of interest between the witness and the company unknown to the witness such that the witness might not want the attorney to be present if he were aware of the divergency of interest; (3) whether the investigation could be prejudiced if the attorney is allowed to attend the interview, the greater the potential prejudice the greater the case for excluding. The factors to consider in favor of allowing the attorney to be present include: (1) Whether there is little or no diversity of interest between the witness and the entity being investigated so that an interview of the witness would in effect practically be an interview of the person or company under investigation; (2) whether the nature of the case makes it unreasonable to insist that the witness have separate counsel; and (3) whether there has been any showing of potential prejudice to the investigation by allowing the attorney to be present.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*)

Regulatory Analysis

The APA affords individuals compelled to submit to agency inquiry under subpoena the right to be accompanied by counsel or other representative of choice. 5 U.S.C. 555(b). Questions concerning the scope of this right have arisen in the context of NRC investigative interviews of licensee employees and the presence of outside influences which often undermine the process. These outside influences have essentially arisen in one of three ways. First, an interviewee's employer has

sought to arrange for a management representative to attend agency interviews of its employees. Second, an employer has provided corporate counsel, either unilaterally or with the agreement of employees, to represent all employees during NRC interviews. Third, an employer has offered to provide its employees free of charge, non-corporate counsel, either selected by the employer or individually retained by the employee. Where licensee provides corporate counsel or selects the interviewees' non-corporate counsel, the potential for conflicts of interest among counsel's multiple clients in responding fully and candidly to agency inquiry become a major concern. Guidance is required in this area because attempts to resolve multiple representation issues on an ad hoc basis have led to unnecessary delays in completing investigations. The foregoing discussion constitutes the regulatory analysis for this proposed rule.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. The proposed rule, which simply sets forth the rights of licensee employees and other individuals who are compelled to appear before NRC representatives under subpoena, would have no significant economic impact on a substantial number of small entities.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule. Therefore, a backfit analysis is not required because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 19

Environmental protection, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Penalty, Radiation protection, Reporting and recordkeeping requirements, Sex discrimination.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 19.

The authority citation for Part 19 continues to read as follows:

Authority: Secs. 53, 63, 81, 103, 104, 161, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 955 as

amended, sec. 234.83 Stat. 444, as amended (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2236, 2282); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 19.11 (a), (c), (d), and (e) and 19.12 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 19.13 and 19.14(a) are issued under sec. 161c, 68 Stat. 950, as amended (42 U.S.C. 2201(c)).

2. The title of Part 19 is revised to read as follows:

PART 19—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS; INSPECTIONS AND INVESTIGATIONS

3. Section 19.1 is revised to read as follows:

§ 19.1 Purpose.

The regulations in this part establish requirements for notices, instructions, and reports by licensees to individuals participating in licensed activities and options available to these individuals in connection with Commission inspections of licensees to ascertain compliance with the provisions of the Atomic Energy Act of 1954, as amended, Title II of the Energy Reorganization Act of 1974, and regulations orders, and licenses thereunder regarding radiological working conditions. The regulations in this part also establish the rights and responsibilities of the Commission and individuals during interviews compelled as part of agency inspections or investigations pursuant to Section 161c of the Atomic Energy Act of 1954, as amended, on any matter within the Commission's jurisdiction.

4. Section 19.2 is revised to read as follows:

§ 19.2 Scope.

The regulations in this part apply to all persons who receive, possess, use, or transfer material licensed by the Nuclear Regulatory Commission pursuant to the regulations in Parts 30 through 35, 40, 60, 61, or Part 72 of this chapter, including persons licensed to operate a production or utilization facility pursuant to Part 50 of this chapter and persons licensed to possess power reactor spent fuel in an independent spent fuel storage installation (ISFSI) pursuant to Part 72 of this chapter. The regulations regarding investigative interviews of individuals apply to all investigations within the jurisdiction of the Nuclear Regulatory Commission other than those involving NRC employees or NRC contractors.

5. In § 19.3, remove the alphabetical designators, rearrange definitions in

alphabetical order, and insert the definition for sequestration in the alphabetical sequence to read as follows:

§ 19.3 Definitions.

"Sequestration" means the separation of multiple witnesses from each other during the conduct of investigative interviews, and the exclusion of counsel who (1) represents one witness from the interviews of other witnesses or who (2) represents the employing entity of the witness or management personnel from the interview of that witness, when such representation obstructs, impairs, or impedes an agency investigation.

6. New § 19.18 is added to read as follows:

§ 19.18 Sequestration of witnesses and counsel.

(a) Any person compelled to appear in person at an interview during an agency investigation may be accompanied, represented, and advised by counsel of his or her choice; *Provided, however*, that all witnesses shall be sequestered, and unless permitted in the discretion of the official conducting the investigation, no witness or counsel accompanying the witness (including counsel who also represents the person or employing entity that is the subject of the investigation) shall be permitted to be present during the examination of any other witness called in such proceeding.

(b) When the agency official conducting the investigation determines, after consultation with the Office of the General Counsel, that a reasonable basis exists to believe that the investigation may be obstructed, impeded or impaired, either directly or indirectly by an attorney's representation of more than one witness or by an attorney's representation of a witness and the employing entity of the witness, the agency official may prohibit that attorney from being present during the interview of any witness other than the witness on whose behalf counsel first appeared in the investigatory proceeding. To the extent practicable and consistent with the integrity of the investigation, the attorney will be advised of the reasons supporting the decision to prohibit his or her representation of more than one interviewee during the investigation.

(c) Where a person's counsel is excluded under paragraph (b) of this section from his or her interview and the person is not provided reasonable prior notice of an intent to exclude counsel, the interview shall, at the person's

request, be delayed for a reasonable period of time to permit the retention of new counsel.

Dated at Rockville, Maryland, this 8th day of November 1988.

For the Nuclear Regulatory Commission,
Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 88-26200 Filed 11-10-88; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-88-14]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

Petitions for Rulemaking

Docket No.: 25698

Petitioner: American Association of Airport Executives and Airport Operators Council International

Regulations Affected: 14 CFR 139.329

Description of the Petition: The petition, if granted, would delete the words "and complies" from the paragraph which currently reads, "ensure that each employee, tenant, or contractor who operates a ground vehicle on any portion of the airport which has access to the movement area is familiar and complies with the airport's rules and procedures for the operation of ground vehicles."

Petitioner's Reason for the Rule: The petitioners assert that the language establishes an unreasonable

regulatory standard that causes confusion and frustration among airport officials seeking to comply with their obligations.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before November 30, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. —, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on November 4, 1988.

Denise Donohue Hall,

Manager, Program Development Staff.

[FR Doc. 88-26168 Filed 11-10-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 21 and 25

[Docket No. NM-35; Notice No. SC-88-8-NM]

Special Conditions; CASA CN-235-100, Lightning and Radio Frequency (RF) Energy Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the CASA Model CN-235-100 airplane. This airplane will have novel or unusual design features associated with engine and propeller electronic controllers. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection from the effects of lightning and the susceptibility to external radio frequency (RF) energy sources. This notice contains safety standards which the Administrator finds necessary to ensure that critical and essential functions of systems in the CN-235-100 are maintained.

DATE: Comments must be received on or before December 5, 1988.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-35, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM-35. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gene Vandermolen, Flight Test and Systems Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, FAA, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168, telephone (206) 431-2157.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions 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 duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-35." The postcard will be date/time stamped, and returned to the commenter.

Background

On May 12, 1987, Construcciones Aeronauticas S.A. (CASA) applied for an amendment to their Type Certificate No. A21NM to include the Model CN-235-100 airplane. The CN-235-100 airplane, which is a derivative version of the CN-235 airplane, is modified to incorporate a new version of the General Electric CT7-7 engine (CT7-9), new engine nacelles, relocation of the

right forward door, and an increased passenger capacity.

Lightning Protection

The CASA CN-235-100 airplane is designed with engine and propeller electronic controllers which perform critical and essential engine functions, such as the start schedule, engine overspeed protection, governing schedule, acceleration schedule, surge schedule, and minimum fuel schedule inputs to the engines. These controllers, which are designed to perform critical or essential functions, are susceptible to disruption to both the command/response signals and the operational mode logic as a result of electrical and magnetic interference. This disruption of signals could result in dual engine shutdown due to opening of the engine ultimate overspeed fuel cutoff solenoids. To ensure that a level of safety is achieved equivalent to that of existing operating airplanes, special conditions are needed which require that the controllers will be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of lightning. To provide a means of compliance with the proposed special conditions, a clarification on the threat definition for lightning is needed.

The following "threat definition", based on SAE Report AE4L-87-3, is proposed as a basis to use in demonstrating compliance with the proposed lightning protection special condition.

The lightning current waveforms (Components A, D, and H) defined below, along with the voltage waveforms in Advisory Circular (AC) 20-53A, will provide a consistent and reasonable standard which is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. How these threats affect the

airplane and its systems depend upon their installation configuration, materials, shielding, airplane geometry, etc.

Therefore, tests (including tests on the completed airplane or an adequate simulation) and/or verified analysis need to be conducted in order to obtain the resultant internal threat to the installed systems. The propulsion control systems may then be evaluated with this internal threat in order to determine their susceptibility to upset and/or malfunction.

To evaluate the induced effects to these systems, three considerations are required:

1. *First Return Stroke*: (Severe Strike—Component A, or Restrike—Component D). This external threat needs to be evaluated to obtain the resultant internal threat and to verify that the level is sufficiently below the equipment "hardness" level; then

2. *Multiple Stroke Flash*: ($\frac{1}{2}$ Component D). A lightning strike is often composed of a number of successive strokes, referred to as a multiple-stroke. Although multiple strokes are not necessarily a salient factor in a damage assessment, they can be the primary factor in a system upset analysis. Multiple strokes can induce a sequence of transients over an extended period of time. While a single event upset of input/output signals may not affect system performance, multiple signal upsets over an extended period of time (2 seconds) may affect the system under consideration. Repetitive pulse testing and/or analysis needs to be carried out in response to the multiple stroke environment to demonstrate that the system response meets the safety objective. This external multiple stroke environment consists of 24 pulses and is described as a single Component A followed by 23 randomly spaced restrikes of $\frac{1}{2}$ magnitude of Component D (peak amplitude of 50,000 amps), all within 2 seconds. An analysis or test

needs to be accomplished in order to obtain the resultant internal threat environment for the system under evaluation.

And,

3. *Multiple Burst*: (Component H). In-flight data-gathering projects have shown bursts of multiple, low amplitude, fast rates of rise, short duration pulses accompanying the airplane lightning strike process. While insufficient energy exists in these pulses to cause direct (physical damage) effects, it is possible that indirect effects resulting from this environment may cause upset to some digital processing systems.

The representation of this interference environment is a repetition of low amplitude, high peak rate of rise, double exponential pulses which represent the multiple bursts of current pulses observed in these flight data gathering projects. This component is intended for an analytical (or test) assessment of functional upset of the system. Again, it is required that this component be translated into an internal environmental threat in order to be used. This "Multiple Burst" consists of 24 random sets of 20 strokes within a period of 2 seconds. Each set of 20 strokes is made up of 20 "Multiple burst" waveforms randomly distributed within a period of one millisecond. The individual "Multiple Burst" waveform is defined below.

The following current waveforms constitute the "Severe Strike" (Component A), "Restrike" (Component D), "Multiple Stroke" ($\frac{1}{2}$ Component D), and the "Multiple Burst" (Component H). These components are defined by the following double exponential equations:

$$i(t) = I_0 (e^{-at} - e^{-bt})$$

where:

t = time in seconds,

i = current in amperes, and

	Severe strike (component A)	Restrike (component D)	Multiple Stroke ($\frac{1}{2}$ component D)	Multiple burst (component H)
I_0 , amp	218,810	109,405	54,703	10,572
a, sec^{-1}	11,354	22,708	22,708	187,191
b, sec^{-1}	647,265	1,294,530	1,294,530	19,105,100
These equations produce the following characteristics:				
'peak	200 KA	100 KA	50 KA	10KA
and				
$(di/dt)_{\text{max}}$ (amp/sec)	1.4×10^{11}	1.4×10^{11}	0.7×10^{11}	2.0×10^{11}
	@t=0+sec	@t=0+sec	@t=0+sec	@t=0+sec
di/dt, (amp/sec)	1.0×10^{11}	1.0×10^{11}	0.5×10^{11}	
	@t=.5 us	@t=.25 us	@=.25 us	
Action Integral (amp ² sec)	2.0×10^6	0.25×10^6	$.0625 \times 10^6$	

Protection from Unwanted Effects of Radio Frequency (RF) Energy

Airplane designs which utilize metal skins and mechanical command and control means have traditionally been shown to be immune from the effects of RF energy from ground-based transmitters. With the trend toward increased power levels from these sources, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of the airplane to RF energy must be established. No universally accepted guidance to define the maximum energy level in which civilian airplane system installations must be capable of operating safely has been established.

It is not possible to precisely define the RF energy to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for RF energy. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing RF emitters, an adequate level of protection exists when compliance with the RF special condition is shown with paragraphs 1 or 2 below:

1. A minimum RF threat of 100 volts per meter average electric field strength from 10 KHz to 20 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. An RF threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Average (V/m)	Peak (V/m)
10 KHz-3 MHz	100	100
3 MHz-30 MHz	1,000	1,000
30 MHz-100 MHz	100	100
100 MHz-200 MHz	200	3,000
200 MHz-1 GHz	2,000	6,000
1 GHz-2 GHz	2,000	14,000
2 GHz-8 GHz	600	14,000
8 GHz-10 GHz	2,000	14,000
10 GHz-40 GHz	1,000	8,000

To establish the values in paragraph 2 above, an analysis was performed using a model of U.S. airspace and the Electromagnetic Compatibility Analysis Center (ECAC) data base, which contains the characteristics of all U.S. emitters. This analysis assumed a minimum separation distance between the airplane and emitters as follows: in

the airport environment, 250 ft. for fixed emitters and 50 ft. for mobile emitters; for the air-to-air environment, 50 ft. from interceptor aircraft and 500 ft. from non-interceptor aircraft; for the ground-to-air environment, 500 ft.; and for the ship-to-air environment, 1,000 ft. The results of this analysis were then combined with the results of a study of emitters in European countries. The above values are therefore believed to represent the worst case external threat levels to which an airplane would be exposed in the operating environment.

Type Certification Basis

Under the provisions of § 21.101 of the Federal Aviation Regulations (FAR), CASA must show that the Model CN-235-100 meets the applicable provisions of the regulations incorporated by reference in Type Certificate A21NM, or the applicable regulations in effect on the date of application for the Model CN-235-100. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis."

The type certification basis for the CASA CN-235-100 airplane includes Part 25 of the FAR, effective February 1, 1965, including Amendments 25-1 through 25-54, and the requirements of § 25.904 concerning an automatic takeoff power control system (ATPCS); Part 36 of the FAR effective December 1, 1969, including Amendments 36-1 through current amendment; Special Federal Aviation Regulation 27, dated February 1, 1974, including Amendments 27-1 through 27-6 (Fuel Venting and Exhaust Emissions); and the special conditions proposed herein.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and may become part of the type certification basis in accordance with § 21.101.

As the intended type certification date for the CN-235-100 is approximately December 15, 1988, the public comment period is shortened to 20 days in order to make the final special conditions effective prior to that date.

Conclusion

This action affects only certain unusual or novel design features on one

model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Special Conditions

Accordingly, the FAA proposes the following special conditions as part of the type certification basis for the CASA Model CN-235-100 airplane.

1. The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. Lightning Protection.

a. Each electronic system which performs critical functions must be designed and installed to ensure that these critical functions are not affected when the airplane is exposed to lightning.

b. Each essential function of an electronic system must be protected to ensure that the essential function can be recovered after the airplane has been exposed to lightning and prior to the time at which the loss of that function would have a significant impact on safety.

c. For the purpose of these special conditions, the following definitions apply:

(1) *Critical Functions*. Functions whose failure would contribute to or cause a condition which would prevent the continued safe flight and landing of the airplane.

(2) *Essential Functions*. Functions whose failure would contribute to or cause a condition which would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

3. *Protection from Unwanted Effects of Radio Frequency (RF) Energy*. Each engine and propeller control system which performs critical functions must be designed and installed to ensure that these critical functions are not adversely affected when the airplane is exposed to high energy RF fields.

Issued in Seattle, Washington, on November 2, 1988.

Leroy A. Keith.

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26179 Filed 11-10-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 341

[Docket No. 76N-052G]

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph for Combination Drug Products; Clarification

AGENCY: Food and Drug Administration.
ACTION: Proposed rule; clarification.

SUMMARY: The Food and Drug Administration (FDA) is issuing a clarification of its notice of proposed rulemaking published in the *Federal Register* of August 12, 1988 (53 FR 30522) in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) cold, cough, allergy, bronchodilator, and antiasthmatic combination drug products (drug products that contain more than one active ingredient and are used for the relief of symptoms such as nasal congestion, runny nose, coughing, watery eyes, sore throat, headache, and fever) are generally recognized as safe and effective and not misbranded.

DATE: Written comments, objections, or requests for oral hearing on the proposed regulation before the Commissioner of Food and Drugs by December 12, 1988.

ADDRESS: Written comments, objections, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: This clarification relates to § 341.40(t) of the tentative final monograph (53 FR 30561), which provided that promethazine hydrochloride identified as an antihistamine (if labeled for relief of

symptoms of the common cold as identified in § 341.72(b)(2)) may be used in combination with other cough-cold and/or analgesic-antipyretic ingredients as provided for antihistamine active ingredients in § 341.40 (a) through (f).

Because § 341.40 (a) through (f) each refer to any single antihistamine active ingredient identified in § 341.12, and promethazine hydrochloride is not identified in § 341.12, it might be possible § 341.40(t) could be subject to more than one interpretation. It could be interpreted to mean that promethazine hydrochloride and another antihistamine active ingredient identified in § 341.12 could be combined with other nonantihistamine active ingredients as permitted combinations in § 341.40 (a) through (f), or it could also be interpreted to mean that only promethazine hydrochloride, without any other antihistamine active ingredients, may be combined with other nonantihistamine active ingredients identified in § 341.40 (a) through (f).

In proposing § 341.50(t) the agency intended the latter interpretation of the wording. In order to remove the potential ambiguity and to avoid possible misinterpretation, FDA is revising § 341.40(t) as set forth below.

The agency has determined that this clarification should not necessitate an extension of the December 12, 1988, deadline for written comments, objections, or requests for oral hearing on this proposed rule.

List of Subjects in 21 CFR Part 341

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic combinations; Labeling; Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 341 to read as follows:

PART 341—COLD, COUGH, ALLERGY, BRONCHODILATOR, AND ANTI-ASTHMATIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR Part 341 continues to read as follows:

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.10 and 5.11.

2. Section 341.40 is amended by revising paragraph (t) to read as follows:

§ 341.40 Permitted combinations of active ingredients.

(t) Promethazine hydrochloride identified as an antihistamine (if labeled for relief of symptoms of the common cold as identified in § 341.72(b)(2)) may be used as the antihistamine component of any of the permitted combinations of active ingredients identified in § 341.40 (a) through (f) of this section.

Dated: November 4, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-26158 Filed 11-10-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

31 CFR Part 103

Proposed Amendments to the Bank Secrecy Act Regulations Regarding the International Transportation and Receipt of Monetary Instruments

AGENCY: Departmental Office, Treasury.
ACTION: Notice of proposed rulemaking.

SUMMARY: The Anti-Drug Abuse Act of 1986, Pub. L. 99-570, Title I, Subtitle H, section 1358, authorized the Secretary of the Treasury to prescribe regulations defining "at one time" for the purposes of the international transportation and receipt of monetary instruments. This Notice proposes such a definition in order to permit Customs, under a delegation from Treasury, to investigate instances of structuring of international transportation and receipt of monetary instruments to avoid the reporting requirements of the Bank Secrecy Act.

In a related matter, Treasury also is proposing to amend § 103.11(k), the definition of "monetary instruments," to include all forms of traveler's checks. This amendment would clarify the status of traveler's checks and conform the definition more closely to the statute.

DATE: Comments should be submitted by January 13, 1989.

ADDRESS: Comments should be addressed to Amy G. Rudnick, Director, Office of Financial Enforcement, Department of the Treasury, Room 4320, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Scott, Attorney Advisor, Office of the Assistant General Counsel (Enforcement), (202) 566-9947.

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act, Pub. L. 91-508 (codified at 12 U.S.C. 1829b, 12 U.S.C. 1951 *et seq.*, and 31 U.S.C. 5311-5324), authorizes the Secretary of the Treasury to require reports on the international transportation and receipt of monetary instruments. 31 U.S.C. 5316. Pursuant to this authority, Treasury issued regulations requiring that a form be filed reporting the international transportation and receipt of monetary instruments that exceed \$10,000. (Form 4790, the "CMIR".) See 31 CFR 103.11(k) and 103.23.

Section 5316 requires that reports be filed by a person, or agent or bailee of a person, when he knowingly transports, is about to transport, or has transported, more than \$10,000 in monetary instruments "at one time" into or out of the United States. The statute also requires that the same report be filed upon receipt of more than \$10,000 in monetary instruments from outside the United States "at one time."

In the Anti-Drug Abuse Act of 1986, 31 U.S.C. 5316 was amended. One amendment was the addition of a new subsection (d), reading as follows:

The Secretary of the Treasury may prescribe regulations under this section defining the term "at one time" for purposes of subsection (a). Such regulations may permit the cumulation of closely related events in order that such events may collectively be considered to occur at one time for purposes of subsection (a).

The House Report on this provision notes:

This provision closes a loophole regarding reports of transporting cash out of the country.

31 U.S.C. 5316, relating to the reports on exporting and importing monetary instruments, requires reports when one transports more than \$10,000 "at one time." The U.S. Court of Appeals for the First Circuit overturned a conviction in *United States v. Anzalone*, 766 F.2d 676 (1st Cir. 1985) holding that structuring currency transactions to avoid the reporting requirements was not a conspiracy to defraud the United States (18 U.S.C. 1001). This amendment permits the Secretary to prescribe regulations to define the term "at one time" to permit the cumulation of closely related events in order that they may collectively be considered to occur at one time for purposes of the reporting requirements.

H. Rep. 99-855, Part I, 99th Cong., 2d Sess. 19.

As a result of this statutory authorization, Treasury has developed the proposed definition of "at one time." Under this proposed definition, a person who transports, mails, ships or receives; is about to transport, mail or ship; or causes the transportation, mailing, shipment or receipt of monetary

instruments, is deemed to do so "at one time" if:

- (1) For the purpose of evading the reporting requirements under § 103.23;
- (2) That person either alone, or in conjunction with, or on behalf of others;
- (3) Transports, mails, ships or receives; is about to transport, mail or ship; or causes the transportation, mailing, shipment or receipt;
- (4) Of monetary instruments;
- (5) In any amount;
- (6) On one or more days;
- (7) Into or out of the United States.

This definition will make clear that structuring schemes involving the international transportation and receipt of monetary instruments are illegal to the same extent that structuring schemes to evade the domestic currency transaction reporting requirements of 31 CFR 103.22 are illegal. See 31 U.S.C. 5324; 31 CFR 103.53.

A second amendment also is proposed with respect to the international transportation and receipt of traveler's checks. Under 31 CFR 103.11(k) (ii) and (iii), traveler's checks are presently reportable under 31 U.S.C. 103.23 *only if* (1) they are negotiable instruments that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; or (2) they are incomplete instruments signed but with the payee's name omitted. The Bank Secrecy Act definition of "monetary instruments" at 31 U.S.C. 5311(a)(3), however, is very broad and includes all forms of traveler's checks within the definition of "monetary instruments."

Treasury is proposing to clarify the definition of "monetary instruments" as it pertains to traveler's checks, and conform the definition more closely to the statute, by including all forms of traveler's checks in the definition of "monetary instruments."

There is a high degree of law enforcement value in reporting all forms of traveler's checks. Traveler's checks are intended to substitute for currency and to operate as currency. Their potential for abuse by drug traffickers and other money launderers therefore is great. For this reason, Treasury is proposing to amend the definition of "monetary instruments." *If adopted, the proposed amendment would subject all forms of traveler's checks to the reporting requirements of 31 CFR 103.23.* The exception from reporting transportation of these instruments by an issuer of traveler's checks or its agent prior to their delivery to selling agents for eventual sale to the public will be retained. 31 CFR 103.23(c)(7). The CMIR form will be changed at a later date.

Submission of Comments

Treasury requests comments from all interested persons concerning the proposed amendments. All comments received before the closing date will be carefully considered. All oral comments must be reduced to writing and submitted to Treasury in order to be considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action. The Treasury Department will not recognize any materials or comments, including the name of any person submitting comments, as confidential. Any material not intended to be disclosed to the public should not be included in comments. All comments submitted will be available for public inspection during the hours that the Treasury Library is open to the public. The Treasury Library is located in Room 5030, 1500 Pennsylvania Ave. NW., Washington, DC 20220. Appointments must be made to view the comments. Persons wishing to view the comments submitted should contact the Office of Financial Enforcement at (202) 566-8022.

Executive Order 12291

This proposed rule, if adopted as a final rule, is not a major rule for purposes of Executive Order 12291. It is not anticipated to have an annual effect on the economy of \$100 million or more. It will not result in a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions. It will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. A Regulatory Impact Analysis therefore is not required.

Regulatory Flexibility Act

It is hereby certified under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this proposed rule, if adopted as a final rule, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The collections of information contained in this Notice of Proposed Rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Information and

Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for Treasury Departmental Offices, with copies to the Office of Financial Enforcement at the address noted above.

The collections of information in 31 CFR 103.23 are authorized by 31 U.S.C. 5316. This information is required by Treasury to record the international transportation and receipt of monetary instruments in excess of \$10,000. This information is used to identify the volumes, sources and movement of currency and other monetary instruments into and out of the country. The likely respondents are those who engage in the international transportation and receipt of monetary instruments in amounts over \$10,000.

Estimated total additional annual reporting burden if the Notice of Proposed Rulemaking is adopted as a Final Rule: 834 hours.

Estimated average annual burden per respondent: .1667 hours.

Estimated additional number of respondents if the Notice of Proposed Rulemaking is adopted as a Final Rule: 5,000.

Estimated annual frequency of responses: 1.

Drafting Information

The principal author of this document is the Office of the Assistant General Counsel (Enforcement). However, personnel from other offices participated in its development.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Foreign banking, Investigations, Law Enforcement, Reporting and recordkeeping requirements, Taxes.

Proposed Amendment

For the reasons set forth below in the preamble, it is proposed to amend 31 CFR Part 103 as set forth below:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for Part 103 continues to read as follows:

Authority: Pub. L. 91-508, Title I, 84 Stat. 1114 (12 U.S.C. 1829b and 1951-1959); and the Currency and Foreign Transactions Reporting Act, Pub. L. 91-508, Title II, 84 Stat. 1118, as amended (31 U.S.C. 5311-5324).

2. It is proposed to amend § 103.11 by redesignating paragraphs (a) through (r) as (b) through (s) accordingly, and add a new paragraph (a) to read as follows:

§ 103.11 Meaning of terms.

(a) *At one time.* For purposes of § 103.23 of this Part, a person who transports, mails, ships or receives; is about to transport, mail or ship; or causes the transportation, mailing, shipment or receipt of monetary instruments, is deemed to do so "at one time" if:

(1) For the purpose of evading the reporting requirements of section 103.23 of this Part;

(2) That person either alone, in conjunction with or on behalf of others;

(3) Transports, mails, ships or receives; is about to transport, mail or ship; or causes the transportation, mailing, shipment or receipt;

(4) Of monetary instruments;

(5) In any amount;

(6) On one or more days;

(7) Into or out of the United States.

3. It is proposed to further amend § 103.11 by redesignating paragraphs (ii) through (iv) as (iii) through (v); by removing the words "traveler's checks" from newly redesignated paragraphs (iii) and (iv); and by adding a new paragraph (ii) to read as follows:

§ 103.11 Meaning of terms.

(i) *Monetary instruments.* * * *

(ii) *Traveler's checks in any form;*

Dated: October 19, 1988.

Salvatore R. Martoche,

Assistant Secretary (Enforcement).

[FR Doc. 88-26189 Filed 11-10-88; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Reg. 12-35]

Air Force Privacy Act Program

AGENCY: Department of the Air Force, DOD.

ACTION: Proposed rule; exemption. Proposed amendment to an existing general exemption rule for public comment.

SUMMARY: The Department of the Air Force is publishing for public comment a proposed exemption rule that will exempt an existing record system, subject to the Privacy Act, from access and therefore permitting denial of individual requests to gain access to

certain categories or records maintained in the system pertaining to the individual. The purpose for claiming and invoking this exemption by rulemaking is to ensure and protect the integrity and frankness of the information received or solicited from third parties, under an expressed or implied promise of confidentiality, compiled solely for the purpose of determine suitability, eligibility, or qualifications for appointment or interservice transfer.

The Department of the Air Force also proposes to amend an existing general exemption rule for an existing system of records to reflect the change in the system name.

DATE: Comments must be received on or before December 14, 1988.

ADDRESS: Send any comments to Ms. Linda G. Adams, Information Management Division, Directorate of Information Management and Administration, Office of the Administrative Assistant, Secretary of the Air Force, The Pentagon, Washington, DC 20330-1000.

FOR FURTHER INFORMATION CONTACT: Ms. Adams at the above address or telephone: 202-694-3488, AUTOVON 224-3488.

SUPPLEMENTARY INFORMATION: The Department of the Air Force proposes to amend 32 CFR Part 806b by publishing a specific exemption rule to exempt certain provisions of an existing system of records F035 AF MP R, entitled: "Application for Appointment and Extended Active Duty Files" from the access provisions of the Privacy Act of 1974, 5 U.S.C. 552a(d). This exemption rule is needed to protect the integrity of records by ensuring confidentiality of information provided by individuals on the record subject and precluding the record subject from accessing any information in the record system containing appraisal information on the suitability, eligibility or qualifications of health care professionals seeking appointment or interservice transfer to the Air Force. In order to exempt a system of records from access, the Air Force must invoke and publish a specific exemption rule for the particular system of records under the provisions of 5 U.S.C. 552a(k) of the Privacy Act. The exemption provision applies only to the extent that information in the system is subject to the exemption. That is any information in the system which cannot be defined as (k)(5) information will not be withheld pursuant to thereto simply because the system is an "exempted system." For practical reasons, non-exempt information in the system cannot be segregated and maintained

apart from that information which is exempt. Therefore, the exemption is claimed to protect the (k)(5) information in the system of records. The exemption rule is promulgated in accordance with 5 U.S.C. 553(b) (1), (2) and (3), (c), and (e) as required by subsection (k) of the Privacy Act. The exemption will not prevent proper access to the vast majority of information contained in the system. The Department of the Air Force also proposes to amend a general exemption rule to reflect a change in the name of the exempted system of records from "Incident Investigation Files, F125 AF SP E" to "Security Police Automated System, F125 AF SP E." The name change occurred when the system were altered under the provisions of 5 U.S.C. 552a(o). There is no change in the system identification number and no change in exemptions claimed from the provisions of the Privacy Act of 1974 (5 U.S.C. 552a).

List of Subjects in 32 CFR Part 806b

Privacy Act exemptions.

For the reasons set out in the preamble, Title 32, Chapter VII, Subchapter A, Part 806b, Subpart E of the Code of Federal Regulations is proposed to be amended as follows:

PART 806b—[AMENDED]

1. The authority citation for Part 806b continues to read as follows:

Authority: Pub. L. 93-579, 5 U.S.C. 552a.

2. Section 806b.13 is amended by revising paragraph (a)(3) and adding new paragraph (b)(20) as follows:

Subpart E—Privacy Act Exemptions

§ 806b.13 General and specific exemptions.

(a) * * *

(3) Security Police Automated System (SPAS), F125 AF SP E.

(b) *Specific exemptions.* * * *

(20) *Application for Appointment and Extended Active Duty Files (F035 AF MP R)*—(i) *Exemption.* Parts of this system of records are exempt from 5 U.S.C. 552a(d), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of confidential sources who furnish information necessary to make determinations about the qualifications, eligibility, and suitability of health care professionals who apply for Reserve of

the Air Force appointment or interservice transfer to the Air Force.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 8, 1988.

[FR Doc. 88-26194 Filed 11-10-88 8:45 am]

BILLING CODE 3810-01-M

32 CFR Part 863

Leasing of USAF Aircraft and Related Equipment to Nongovernment Organizations

AGENCY: Department of the Air Force, DOD.

ACTION: Proposed rule.

SUMMARY: This proposed part outlines USAF policies and procedures for the provision of leasing USAF aircraft and related equipment to nongovernment organizations. It establishes the responsibilities for evaluating lease requests, obtaining necessary approvals, and negotiating and administering lease agreements. It is intended to accelerate the evaluation, approval and negotiation processes associated with these lease requests.

DATE: Comments must be submitted on or before December 14, 1988.

ADDRESS: Department of the Air Force, SAF/AQCM, Washington, DC 20330-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Kattner, Procurement Analyst, SAF/AQCM, Washington, DC 20330-1000, telephone (202) 695-4982.

SUPPLEMENTARY INFORMATION: The Department of the Air Force has determined that this regulation is not a major rule as defined by Executive Order 12291, is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), and does not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

List of Subjects in 32 CFR Part 863

Aircraft, Government contracts, Government property.

Therefore, it is proposed to amend 32 CFR, Chapter VII, Subchapter F, by adding Part 863 to read as follows:

PART 863—LEASING USAF AIRCRAFT AND RELATED EQUIPMENT TO NONGOVERNMENT ORGANIZATIONS

Sec.

863.0 Purpose.

Subpart A—Policy and Responsibilities

863.1 Leasing policy.

863.2 SAF/AQ responsibilities.

863.3 AFSC responsibilities.

863.4 AFLC responsibilities.

Subpart B—Basic Terms and Conditions

863.5 Authorized uses.

863.6 Lease charges.

863.7 No cost to the USG.

863.8 Risk of loss.

863.9 Indemnification of the USG.

863.10 Maintenance responsibilities.

863.11 Inspection responsibilities.

863.12 USG support.

863.13 Terminating the lease agreement.

863.14 DSAA and State Department approvals.

863.15 Flights for dignitaries.

863.16 Air show participation plan clause.

Subpart C—Lease Requests and Evaluation

863.17 Request initiation.

863.18 SPO or ALC.

863.19 HQ AFSC or HQ AFLC.

Subpart D—Coordination and Approval Process

863.20 Air Staff coordination.

863.21 Secretariat approval process.

863.22 Processing time.

Subpart E—Lease Negotiation and Administration

863.23 AFSC lease negotiation.

863.24 AFLC lease negotiation.

863.25 Delegation of lease administration.

863.26 Lessee compliance.

863.27 Lessee payments.

Authority: 10 U.S.C. 2667.

Note: This part is derived from Air Force Regulation (AFR) 70-10.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 863.0 Purpose.

This part outlines United States Air Force (USAF) policies and procedures for leasing USAF aircraft and related equipment to nongovernment organizations (such as, American manufacturers) under 10 U.S.C. 2667. The intended uses of the leased assets might include, but are not necessarily limited to, participation in national and international trade or air shows, foreign military sales or direct foreign sales demonstrations, independent research and development efforts by defense firms, and direct or indirect support of United States Government (USG) contracts. This part does not apply to military leases of USG property to foreign governments or international organizations (such as, North Atlantic Treaty Organization) under Chapter 6 of the Arms Export Control Act. This part establishes the responsibilities for evaluating lease requests, obtaining approvals, and negotiating and administering the lease agreements. This

part applies to the Office of the Secretary of the Air Force, the Air Staff, Air Force Systems Command (AFSC), and Air Force Logistics Command (AFLC). This part requires coordination with the USAF operational commands, the Air Force Reserve, and the Air National Guard when their assets are under consideration for lease. It implements DOD Instructions 7230.7, January 29, 1985 (32 CFR Part 288), and 7230.8, June 9, 1976.

Subpart A—Policy and Responsibilities

§ 863.1 Leasing policy.

10 U.S.C. 2667 provides the Secretary of the Air Force the authority to lease assets under the control of the USAF to nongovernment organizations. When the Secretary considers it advantageous for the United States, leases may be approved under such terms and conditions the Secretary considers will promote the national defense or be in the public interest. The statute provides that the property must be under the control of the department; not for the time needed for public use; and not excess property. Typically, the USAF does not lease assets which are otherwise available from commercial sources.

§ 863.2 SAF/AQ responsibilities.

(a) The Secretary of the Air Force delegated the statutory authority to approve leases to the Assistant Secretary of the Air Force for Acquisition (SAF/AQ). Since final leasing authority rests at the secretariat level, field and staff elements must take care not to preempt or prejudice the Secretary's authority to determine whether a proposed lease is advantageous to the United States and what terms and conditions will be considered as promoting the national defense or being in the public interest.

(b) SAF/AQ determines whether a lease request from a nongovernment organization or from a command on behalf of a nongovernment organization meets the general guidelines of this part. Furthermore, SAF/AQ ensures that the Air Staff (HQ USAF/LE, PR, XO, CC), the Office of the Secretary of the Air Force (SAF/AC, PA, GC), Defense Security Assistance Agency (DSAA), and USAF operational commands, the Air Force Reserve, or Air National Guard when their assets are potential lease candidates have coordinated, as necessary, before recommending that SAF/AQ sign a Determination and Finding (D&F). This document designates which command, normally AFSC or AFLC, will negotiate and execute the lease agreement and

outlines the basic terms and conditions which must be contained in the lease. SAF/AQ makes the determination if it is unclear whether AFSC or AFLC should assume a particular leasing action. The determination and finding format for authority to lease United States government property is shown below.

Determination and Finding Format

The Department of the Air Force (USAF) proposes to lease aircraft to _____ for a _____ period. (Describe the details of the proposed lease activity.) As consideration for the lease, the lease will contain the following additional terms and conditions:

(1) The leased property shall not be transferred, encumbered, or used for other purposes without the written consent of the Secretary of the Air Force.

(2) The leased property shall be furnished "as is" without any warranty, express or implied, as to serviceability, fitness for use, or other matters.

(3) The lessee shall pay the United States Government (USG) all rent, costs, and charges associated with the use of the leased property while under lease according to 32 CFR 288 and this Determination and Finding.

(4) The lessee shall maintain the leased property during the term of the lease in a safe and serviceable condition according to prescribed USAF standards or pay the full cost of any such maintenance accomplished by the USG.

(5) Support provided by the USG, if any, shall be on a noninterference, reimbursable basis, including use of support aircraft, equipment, and facilities. The availability of such support, and the computation of any associated charges or costs, will be according to applicable Department of Defense directives and instructions and USAF regulations and manuals.

(6) The lessee shall be responsible for all costs relating to the leased property during the term of the lease including, without limitation, expenses of operation, maintenance, display, demonstration, ferrying, transportation, support, and protection.

(7) The lessee shall not include any charges or costs resulting from the lease authorized hereby directly or indirectly in any USG contract, except to the extent authorized under the Federal Acquisition Regulations. OPTIONAL (7) Except as otherwise authorized under the Federal Acquisition Regulations, the lessee shall not include any charges or costs resulting from the lease authorized hereby directly or indirectly in any USG contract except for DOD contracts expressly requiring use of the leased property and then only to the extent that such costs are properly allocable to such contracts and reimbursable according to the terms thereof. Costs charged to the USG respecting the leased property under any such contracts will not exceed the lessee's costs under the lease.

(8) The lessee shall assume the risk of loss, damage, or destruction to the leased property. The risk will be covered by insurance on the depreciated value of the property or, with the USG's approval, the lessee may be self-insured.

(9) The lessee shall indemnify and hold the USG, its agents, officers, and employees harmless from any and all loss and liability (whether in tort or contract) which might arise in connection with the lease because of: (a) injury or death of a personnel of the USG, the lessee, or third parties; and (b) damage to or destruction of property of the lessee or third parties, and leased property, support equipment, or other property of the USG. The lessee shall obtain insurance adequate to cover all such liabilities.

(10) The lessee shall return all leased property to the USAF, at such place as is designated by the contracting officer, in the same condition as when accepted, fair wear and tear excepted. If the USAF determines that any of the leased property was not returned in such condition, or has not been maintained according to prescribed USAF standards, the lessee shall reimburse the USAF for the cost of returning such property to its proper condition. OPTIONAL (10) The lessee shall return all leased property to the USAF, at such place as is designated by the contracting officer, in the same condition and configuration as when accepted, fair wear and tear excepted. If the USAF determines that any of the leased property was not returned in such condition or configuration, or has not been maintained according to prescribed USAF standards, the lessee shall reimburse the USAF for the cost of returning such property to its proper condition and pre-lease configuration.

(11) The lease may be revocable by the USAF at any time. The lease may be terminated by the lessee at any time upon 15 days prior written notice, subject to the lessee's residual responsibilities under the lease (to return leased property, to pay all costs resulting from the lease, to indemnify and hold harmless the USG, etc.).

(12) The lessee shall assume responsibility that may be imposed by other Government agencies for certification and registration of the leased property and for payment of any taxes or other charges thereon.

OPTIONAL (13) During the term of the lease, the lease status of the leased property may be interrupted from time to time by the USAF and the property made available for other USG activities under USG contracts with the lessee. During such periods, the property will revert to Government-Furnished Property status under the applicable USG contract. Any doubt as to the status of the leased property at any particular time will be resolved in favor of lease status.

OPTIONAL (14) The lessee shall secure necessary Defense Security Assistance Agency and State Department clearances prior to commencement of any demonstration or evaluation flights for representatives of foreign governments.

OPTIONAL (15) Orientation flights for United States Congressional and news media representatives and orientation and evaluation flights for foreign nationals shall be subject to approval according to Department of Defense Regulation 4515.13R.

OPTIONAL (16) The lessee planning to fly leased aircraft at the air show shall prepare an air show plan for the USAF's approval which provides information on: scheduled

use of the leased property; qualifications and duties of lessee personnel attending the air show; intended and contingency flight profiles; provisions for ensuring adequate preflight crew rest and for ensuring proper preflight briefings and postflight debriefings; and provisions for obtaining a visual record, and flight data recorder coverage (if aircraft is so equipped) of practice and show flight demonstrations, and orientation flights. USG approval of, or involvement in, such plan shall not diminish the lessee's assumption of risk of loss and liability in connection with the lease.

Pursuant to Title 10, United States Code, Section 2667, I find that the property to be leased is under the control of the USAF; it is not excess property as defined by Section 472 of Title 40, United States Code; but it is not for the time needed for public use. I consider the above described lease of such property to be advantageous to the United States and such terms to be in the public interest.

The Commander, _____, or designee, is authorized to execute a lease according to this Determination and Finding.

§ 863.3 AFSC responsibilities.

AFSC evaluates lease requests, determines asset availability, and negotiates approved leases. When a prospective lessee desires to lease an asset being acquired or managed by a System Program Office (SPO), that SPO evaluates the lease request, makes its recommendation to HQ AFSC/PKC, and negotiates the lease agreement, if approved by SAF/AQ.

§ 863.4 AFLC responsibilities.

AFLC evaluates lease requests, determines asset availability, and negotiates approved leases. When a prospective lessee requests the lease of an asset managed by AFLC or an asset under the control of any of the USAF operational commands, the AFLC Air Logistics Center (ALC) most familiar with the asset evaluates the lease request and makes its recommendation to HQ AFLC/PM. The Wright-Patterson Contracting Center (WPCC) negotiates the lease agreement, if approved by SAF/AQ.

Subpart B—Basic Terms and Conditions

§ 863.5 Authorized uses.

The lease agreement will specify what uses may be made of the leased property. The authorized uses of the leased property need not support a USG contract or requirement. The lease may limit or specify the location of lease performance.

§ 863.6 Lease charges.

(a) Lease charges are comprised of rent, reimbursement of any out of pocket expense to the USG, and other costs which the lessee must pay according to

the terms of the lease. Pursuant to 32 CFR Part 288, User Charges, rent must include charges for depreciation and interest on investment. These charges may be assessed on a daily, monthly, or yearly basis as determined appropriate by the contracting officer. For example, if the lease period is short term or if the leased property is being modified in such a way as to preclude its return to the USAF for immediate use to satisfy a USG mission requirement, charge rent during the entire lease term. However, if the lease period is long term and lease activities are actually intermittent rather than continuous, charge rent only during those times the leased property is actually in use by the lessee or unavailable for USAF use.

Note.—Periods of use are defined in the lease.

(b) It may be appropriate to assess flying-hour charges if an aircraft is leased. Flying hour charges can be assessed for depot maintenance, replenishment spares, base support, etc., depending on the leasing situation. If an operational aircraft is leased, payment of depot maintenance and replenishment spares charges would be in order. If the lessee is authorized under the lease to obtain spare parts from the supply system, the lessee should either pay the spares flying-hour charges or reimburse the USG the cost of the spare part plus the cost of providing it.

(c) Leases should include a charge for general and administrative expenses of the USG. The contracting officer should assess a charge of 10 percent of all other lease charges to recoup the USG's general and administrative expenses.

(d) SAF/ACCS sets depreciation, interest on investment, and flying-hour charges. When the specific item to be leased is identified, these rates may be based on supplemental information from the SPO or ALC as to the property's acquisition cost, replacement cost, age, major modifications, salvage value, etc. When the specific item is not identified or actual costs are unknown, use reasonable estimates. The contracting officer is authorized to communicate directly with SAF/ACCS in determining rental charges. Also assess rent for pieces of support equipment which the lessee may require to support the major items of leased property. In such cases, SAF/ACCS may recommend the use of the rates set forth in the Use and Charges clause in the Federal Acquisition Regulation for rental computation.

(e) When the lease activity being pursued by the lessee is of particular interest to the USG, the contracting

officer may arrange to receive a technical report from the lessee. The value of the report, as established by the contracting officer, can represent a credit against rental charges otherwise due under the lease. Such a credit must not exceed the rental charges owed by the lessee.

§ 863.7 No cost to the USG.

The lessee is responsible for all rent, costs and charges relating to the leased property during the lease. Generally, the lessee may not include any charges or costs resulting from the lease directly or indirectly in any USG contract or subcontract. Exceptions may be approved for contracts for foreign military sales, for independent research and development costs, international air show costs and in other limited cases where specific USG contracts or programs benefit from the lease activities or when otherwise authorized by law.

§ 863.8 Risk of loss.

The lessee must agree to assume the risk of loss, damage, or destruction of the leased property during the period of the lease. This applies when equipment or an aircraft is leased whether a lessee or USAF operator or pilot is operating the equipment or acting as pilot in command. The lessee must obtain insurance to cover the insurable value of the leased property, unless the contracting officer agrees that the lessee may be self-insured.

§ 863.9 Indemnification of the USG.

The lessee must agree to hold harmless and indemnify the USG, its agents, employees, and offices from any and all loss and liability. The lessee must obtain insurance adequate to cover all such liabilities.

§ 863.10 Maintenance responsibilities.

The lessee must maintain the leased property during the lease period according to standards established by the USG or pay the cost of maintenance accomplished by the USG.

§ 863.11 Inspection responsibilities.

The contracting officer should ensure appropriate inspections are performed by contract administration services personnel or others during lease performance and by the activity receiving the property after lease performance to determine whether the lessee maintained the leased property according to USAF standards.

§ 863.12 USG support.

Any support provided the lessee by the USG will be on a noninterference,

cost-reimbursable basis. This applies to material, facilities, support aircraft, and crewmembers.

§ 863.13 Terminating the lease agreement.

The USG may terminate the lease at any time and at no cost. The lessee may terminate the lease upon prior written notice to the contracting officer and subject to its residual responsibilities under the lease (payment of charges, return of the leased property, etc.). In long-term leases it may be appropriate to provide for periodic interruptions of the lease so the leased property can be returned to the USG to satisfy its requirements.

§ 863.14 DSAA and State Department Approvals.

When a lessee proposes to demonstrate the leased property to representatives of foreign governments or international organizations or to participate in international organizations or to participate in international air shows, the lessee must secure DSAA approval and obtain export license clearance from the State Department. If the lessee knows the details of the proposed demonstration or evaluation at the time the lease request is submitted, SAF/AQ will obtain DSAA coordination when processing the lease request to the SAF/AQ for approval. If these details are unknown at the time of the lease request, then the lessee must obtain DSAA approval by separate request through HQ USAF/PRI (Directorate of International Programs) channels.

§ 863.15 Flights for dignitaries.

The lessee must get prior approval for flights if one of the authorized uses of a leased aircraft is orientation flights for foreign nationals or dignitaries, including members of Congress and representatives of the US news media (see DOD Regulation 4515.13R).

§ 863.16 Air show participation plan clause.

Leases authorizing participation in an international air show must contain a provision requiring the lessee to obtain prior USAF approval of its plans for conducting flight operations and providing adequate crew rest. The provision also requires the lessee to describe its demonstration flight profiles. Leases for international air shows require compliance with Part 862 of this chapter. The Air Show Participation Plan clause is shown below.

Air Show Participation Plan Clause

(a) Prior to any flight performed for demonstration, exhibition, practice, or

evaluation purposes at a scheduled international air show as authorized elsewhere in this lease, the Lessee shall obtain the approval of the Director of Operations and Readiness, Headquarters, USAF (AF/XOO), for an Air Show Participation Plan covering the following:

- (1) Detailed schedule of planned use of the leased aircraft.
- (2) The name (or names) and qualifications of the pilot (or pilots) who are scheduled to fly the aircraft in practice, deployment or redeployment, and air show flights.
- (3) Specific information on the qualifications of other crewmembers who may be needed.
- (4) The names, qualifications, and exact duties of contractor supervisory personnel who may take part in any way in the management and control of the USAF aircraft while it is leased.
- (5) The intended flight profiles planned for:
 - (i) Favorable weather conditions (specify favorable weather conditions for subject aircraft).
 - (ii) Weather conditions less than favorable but above the air show minimums, AFRs 60-16 and 60-18, and the aircraft handbook (Technical Order) limitations.
 - (iii) Alternate modified profiles for both weather conditions that would be flown if air show authorities limit flight time due to scheduling problems.
- (6) Provisions for ensuring adequate preflight crew rest for the pilot (or pilots) and other crewmembers. This must include the way in which the flightcrews (pilots) will be isolated from potential marketing or other pressures that may be expected in the international air show environment.
- (7) Specific schedule and attendees at preflight planning, preflight briefings, and postflight debriefings.
- (8) Provisions for providing a visual record of all practice flights and air show demonstrations (16mm film or three-fourths inch video tape).
- (9) Provisions for providing maximum flight data recorder coverage (if subject aircraft is normally flight data recorder equipped) of all practice flights and air show flight demonstrations.
- (10) Provisions for ensuring the pilot who flies the aircraft wears suitable flight clothing for maneuvers to be performed (such as, anti-g suit).
- (11) The Air Show Participation Plan as submitted for such required approval shall specify each nonstandard configuration of the aircraft to be leased and shall list each item of equipment or stores intended to be incorporated in or used to support the leased aircraft that is not part of the USAF standard equipment or approved stores list.
 - (b) Lessee's initial proposal and any revised proposals for such Air Show Participation Plan are to be submitted to the cognizant Systems Program Office or Plant Representative Office according to Part 862 of this chapter.
 - (c) The provisions of such Air Show Participation Plan as so approved shall be complied with by the Lessee as regards all air show demonstrations, exhibition, and evaluation flights performed with the leased property during the term of this lease, at or in

the general vicinity of the air show locations, and shall also be complied with regarding all practice and pilot qualification flights during the term of this lease in preparation for such demonstration, exhibition, or evaluation flights.

(d) The Lessee shall permit the Contract Monitor or a delegate, as appointed by the United States Government (USG) for this lease, to monitor air show participation under this lease, and to have access to the leased aircraft during the entire period of air show participation and during all periods of practice or qualification for such air show participation as authorized under this lease, together with access to the maintenance and staging areas used for such participation or practice.

(e) The Contract Monitor shall be considered an element of USAF support, the costs of which are charged to the Lessee as lease support costs.

(f) The Lessee shall submit to the Contracting Officer, within thirty days after the completion of such air show participation authorized under this lease, a lease completion report outlining and explaining any problems encountered in and during the performance of the lease as regards such aircraft practice and participation flights, together with recommended procedures and procedural changes to improve the safety of USAF aircraft leased for air show participation under future leases. If no such problems are encountered, a negative report shall be submitted. The Lessee shall also, upon the written request of the Contracting Officer, and at no cost to the USG under this lease, provide the USG with copies (duplicate) of all visual record and of the flight recorder data of all practice flights and air show demonstrations as called for in the foregoing paragraphs.

(g) The Lessee shall also advise the cognizant System Program Director of its proposed participation in static displays or flights demonstrations at the air show, and shall ensure that appropriate Lessee personnel are available, at the time and place designated by the System Program Director, to receive a cautionary prebriefing on the military security requirements and other sensitive areas related to the leased aircraft and equipment.

(h) It is mutually understood and agreed that the sole purpose of this clause is to give the USG full knowledge of the intended use of the leased property and an opportunity to observe the Lessee's compliance with its proposed plan. Lessee acknowledges and agrees that the USG makes no warranty that the approved plan is safe and that the USG assumes no risk of loss or liability to third parties that may arise despite the Lessee's adherence to the approved plan. This clause creates no exceptions to the Lessee's obligations to assume risk of loss and third party liability, including obtaining insurance, as set out fully in the clauses elsewhere in this lease.

Subpart C—Lease Requests and Evaluation**§ 863.17 Request initiation.**

The prospective lessee initiates the lease request and submits it to the appropriate SPO or ALC responsible for the items desired under the lease. The lease request must contain, as a minimum, the following information:

(a) Identification of the property to be leased (including tail numbers or part numbers, if known).

(b) Purpose of the lease.

(c) Proposed start date and duration.

(d) Proposed location(s) of the lease activity.

(e) Expected benefits to the lessee.

(f) Expected benefits to the USG.

(g) Statement as to nonavailability of suitable commercial items.

(h) Other pertinent facts (flights for dignitaries, for example).

§ 863.18 SPO or ALC.

When the SPO or ALC receives a request to lease USAF assets, they evaluate the request for the benefits to the USG and the lessee and the availability of the property during the proposed lease period. Also, they address the appropriateness of the intended use of the property and any limitations or reservations which should be imposed on such use. If the property requested for lease is assigned to an operational command, the SPO or ALC coordinates with that command then sends the request through contracting channels to command headquarters.

§ 863.19 HQ AFSC or HQ AFLC.

Command headquarters review each lease request and prepare a draft Secretarial D&F. The command then forwards the lease package consisting of the lease request, the D&F, and other supporting data with an endorsement to SAF/AQC for approval. The command forwards lease packages requesting participation in an international air show to HQ USAF/XOO (with an information copy to SAF/AQC).

Subpart D—Coordination and Approval Process**§ 863.20 Air Staff coordination.**

Coordination requirements depend on the intended use of the leased items and whether the items are developmental or operational. SAF/SQC coordinates with HQ USAF/XOO, PRI, and LEY, as necessary. SAF/AQC coordinates with HQ USAF/PRP on the use of aerospace vehicles counted in the USAF inventory. If the proposed lease is for participation

in an international air show, follow Part 862 of this chapter.

Note.—HQ USAF/XOO approves the lessee's international air show plans, including flight profiles. HQ USAF/PRI coordinates on requests involving demonstrations of leased property to representatives of foreign governments.

§ 863.21 Secretariat approval process.

Secretariat coordination and approval involves offices of diverse responsibilities. SAF/PA coordinates on air show lease requests. SAF/ACCS reviews all requests and provides rental charge guidance to the contracting officer. The DSAA approves all requests involving potential sales to foreign governments and organizations. In all cases SAF/GC reviews lease requests and D&Fs. SAF/AQ final approval on all lease requests.

§ 863.22 Processing time.

The coordination and approval process for a routine lease request usually takes four weeks. Prospective lessees and the commands should plan on a minimum of four weeks for approval of the D&F once a lease request reaches the SAF/AQC. Lease requests received with insufficient lead time may be returned without action.

Subpart E—Lease Negotiation and Administration**§ 863.23 AFSC lease negotiation.**

The AFSC SPO responsible for an item which is approved for lease must negotiate the lease according to the signed D&F. The office which negotiates a lease is also responsible for amending it and recommending renewal, if appropriate. The SPO is also responsible for working with SAF/ACCS to determine the appropriate lease charges.

§ 863.24 AFLC lease negotiation.

WPCC negotiates leases of equipment no longer being acquired by AFSC. WPCC also amends leases and recommends renewal, if appropriate. The Secretarial D&F sets the basic terms and conditions which must be incorporated into the lease. WPCC works with SAF/ACCS to establish the proper lease charges.

§ 863.25 Delegation of lease administration.

After negotiation, the SPO or WPCC delegates the lease to the cognizant contract administration office for administration. However, if the lease is to be performed overseas, the contracting officer may retain administration.

§ 863.26 Lessee compliance.

The contract administration activity

must make sure that the lessee is complying with all the terms and conditions of the lease. The lessee must follow maintenance requirements, obtain necessary approval keep use records upon which rental charges may be calculated, and pay rental and other charges according to the lease agreement.

§ 863.27 Lessee payments.

Payments for rental (including depreciation and interest on investment) must be returned to miscellaneous receipts of the U.S. Treasury. Payments for flying-hour charges and reimbursement for support or services provided by the USG may be credited to the appropriation of the activity to which the leased property is assigned or which provided the support or service. If the lessee is authorized to obtain material from the supply system, it can only be provided on an as available, reimbursable basis. The contracting officer provides instructions to the lessee and appropriate accounting and finance office on handling payments.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88-26177 Filed 11-10-88; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Public Health Service****42 CFR Part 50**

[Docket No. 88-21257]

Announcement of Development of Regulations Protecting Against Scientific Fraud or Misconduct

AGENCY: Public Health Service, HHS.

ACTION: Advance notice of proposed rulemaking; Extension of comment period.

SUMMARY: On September 19, 1988, the Department issued (at 53 FR 36344-36347) an Advance Notice of Proposed Rulemaking to elicit public comment on a range of policy options being considered concerning possible regulatory action for protecting against scientific misconduct. The purpose of this Notice is to extend the pertinent comment period to December 19, 1988.

DATE: To assure consideration, comments must now be received at the address indicated below by the close of business on December 19, 1988.

ADDRESS: Comments should continue to

be addressed to: John Gallivan, PHS Regulations Officer, Room 740 G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Comments will be available for review by the public at this address from 9 a.m. to 5 p.m. Monday through Friday.

FOR FURTHER INFORMATION, CONTACT: Mr. Gallivan, at the address or telephone number indicated above.

SUPPLEMENTARY INFORMATION: The Department published two documents in the September 19, 1988 *Federal Register* pertaining to scientific misconduct—an Advance Notice of Proposed Rulemaking (ANPRM), found on pages 36344–36347 of that issue, and a Notice of Proposed Rulemaking (NPRM), found on pages 36347–36350. We are hereby extending the comment period on the former document.

A 60-day comment period was established for this ANPRM, with the deadline for receipt of comments established as November 18, 1988. The majority of the responses received to date, however, have requested that this period be extended by 60 days. We have received several such requests from individual universities, departments or researchers. Additionally, we have received such requests from the Federation of American Societies for Experimental Biology, the American Chemical Society, the American Society for Microbiology, and the Institute of Medicine—professional organizations which represent large numbers of individuals or groups that could possibly be affected by regulation action on scientific misconduct.

While we recognize that thoughtful formulation of commentary on the issues and options raised in the ANPRM cannot be effected quickly, it is also felt that an extension of another 60 days would unduly delay any subsequent rulemaking process, especially in light of the 60-day comment period already established. However, because of the importance of receiving comments from all parties that may be affected by further proposed regulations protecting against scientific misconduct, it has been determined that it is reasonable to extend the closing date of the comment period on the ANPRM for another 30 days, to December 19, 1988.

Date: November 8, 1988.

John Gallivan,

PHS Regulations Officer.

[FR Doc. 88-26224 Filed 11-10-88; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2200

[AA-320-89-4212-13]

Land Exchange Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to propose rulemaking.

SUMMARY: The Federal Land Facilities Act of August 20, 1988 (Pub. L. 100-409) amended the Federal Land Policy and Management Act with regard to exchanges so as to require changes in Department of the Interior regulations and implementing instructions applicable to exchange and appraisal procedures.

One purpose of the Federal Land Exchange Facilitation Act was to amend the provisions of the Federal Land Policy and Management Act of 1976 and other laws to exchange involving lands managed by the Departments of the Interior and Agriculture in order to facilitate and expedite exchanges. In general, it directs the Bureau of Land Management and the Forest Service to develop more uniform rules and regulations pertaining to the land appraisals that reflect nationally recognized standards, and to establish procedures and guidelines for the resolution of appraisal disputes.

The Department of the Interior requests suggestions from the public on procedures for implementing the new provisions of the law. Public comments are sought on the agreement to initiate and exchange, appraisal standards, adjustment of relative values for compensation purposes, the bargaining process, and the definition of "approximately equal value", "statement of value" and "qualified appraiser". The suggestions and recommendations submitted should reflect normal real estate practices, be consistent with nationally recognized appraisal standards, and encourage accountability for expenditure of public resources. In addition, the recommendations should be designed to encourage and facilitate the land exchange process.

DATE: Comments should be submitted by December 14, 1988. This limitation of time to comment is essential because final regulations are required to be issued by August 20, 1989. Comments received or postmarked after December 14, 1988 may not be considered in developing the proposed rulemaking. Comments should be sent to: Director

(140), Bureau of Land Management, Room 5555, Main Interior Building, 1800 C Street NW., Washington, DC 20240.

Comments will be available for public review at the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David Cavanaugh, (202) 343-5441, or David Hemstreet, (202) 343-8693.

SUPPLEMENTARY INFORMATION: The provisions of the Federal Land Exchange Facilitation Act require changes in the exchange policies of the Bureau of Land Management. The following is a brief summary of significant provisions applicable to exchange and appraisal procedures.

Sections 3 and 9 of that Act amend section 206 of the Federal Land Policy and Management Act by adding provisions:

1. Establishing timetables and mechanisms for the resolution of disagreements concerning the values of the properties involved, unless otherwise agreed by parties to the exchange;
2. Requiring the Department of the Interior and the Department of Agriculture to develop regulations which reflect nationally recognized appraisal standards;
3. Permitting the Secretary of the Interior to adjust the relative values of the properties to be exchanged in order to compensate a party or parties to the exchange for assuming costs, or other responsibilities or requirements, which would ordinarily be borne by the other party or parties;
4. Allowing exchange of Federal lands at approximately equal value when the combined value of the Federal lands is \$15,000 or less, and when the determination of approximately equal value can be made without formal appraisals based on a statement of value prepared by a qualified appraiser, and approved by the authorized officer;
5. Permitting waiver of cash equalization payments where the amount to be waived is no more than 3 percent of the value of the lands being transferred out of Federal ownership or \$15,000, whichever is less;
6. Allowing temporary segregation of Federal lands under consideration for exchange from appropriations under the mining laws for a period not to exceed 5 years.

Other sections of the Federal Land Exchange Facilitation Act provide for land exchange funding authorization, a land information study, and authorization to revoke, modify or terminate part or all of the withdrawal

in order to complete an exchange. Those provisions will not be addressed in the rule to be proposed and comments on them are not requested.

The public is requested to provide information or make suggestions which would assist the Bureau of Land Management in developing regulations implementing the Federal Land Policy and Management Act as amended by the Federal Land Exchange Facilitation Act. Specific comments should address the following new sections:

1. Sections 206(d) (1) and (2) of the Federal Land Policy and Management Act require an agreement to initiate an exchange. The sections provide that, unless otherwise agreed, arrangements for appraisals shall be made within 90 days. If the parties fail to agree on value within 180 days of submission of the appraisals for review, the appraisals shall be submitted to arbitration. The Senate Committee on Energy and Natural Resources, in commenting on this provision, indicates that the term "agreement to initiate an exchange" does not imply that the Secretary concerned or any other party is bound to complete the exchange.

We would appreciate comments and alternatives on how the process should be structured and to what extent the process should be addressed in the regulations.

2. Section 206(d)(4) provides that, instead of sending the appraisal to a arbitrator, the Secretary concerned and other parties to the exchange may mutually agree to employ a process of bargaining or some other process to determine the values of the properties involved in the exchange.

The public is invited to comment on the process of bargaining and suggest possible alternatives to facilitate Federal land exchange and protect the public interest.

3. Sections 206(f) (1) and (2) require the Secretary of Interior to develop rules pertaining to appraisals of lands and interests involved in exchanges which reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisitions.

The public is requested to provide comments, suggestions, references, or proposed language for criteria to be included in the appraisal standards.

4. Section 206(f)(2)(B)(ii) allows the Secretary of the Interior, upon mutual agreement of the parties, to adjust the relative values of the lands to be exchanged. This would allow compensation for various costs, responsibilities, or requirements assumed by one party which are

ordinarily paid by the other party. Public suggestions are invited to identify allowable deductions.

Suggestions and comments should specifically address a provision in section 206(f) that would allow an adjustment for costs, or requirements associated with "curing deficiencies preventing highest and best use, and other costs to comply with laws, regulations and policies applicable to exchange transactions, or which are necessary to bring the Federal or non-Federal lands or interests involved in the exchange to their highest and best use for the appraisal and exchange purposes."

5. Section 206(h)(1) of the Federal Land Policy and Management Act allows the Secretary of the Interior to exchange lands out of Federal ownership without a formal appraisal if the combined value of the Federal lands is not more than \$150,000, and the lands exchanged are approximately equal in value. The estimated values of the tracts must be based on a "statement of value made by a qualified appraiser and approved by an authorized officer."

Public suggestions are requested on what is "approximately equal value", what supporting appraisal information should be included in a statement of value, and what criteria should be used for determining a qualified appraiser.

Consideration is being given to defining approximately equal value in terms of differences in relative values of the properties to be exchanged. As an example, if the values of the lands exchanged are within 10% of each other, they would be considered approximately equal in value.

"Statement of value" is a new term to most professional appraisers. The new provision in section 206 of the Federal Land Policy and Management Act allows something less than a formal appraisal. This can be interpreted as meaning that the standard narrative reports are unnecessary. We solicit comments from the public as to whether or to what degree statements of value should comply with nationally recognized minimum appraisal standards.

The term "qualified appraiser" is not defined in the Act. Bureau of Land Management Manual 9310—Real Property Appraisal—requires that staff appraisers successfully complete a minimum of 160 hours of training sponsored or conducted by a nationally recognized professional appraisal organization. Review Appraisers must have completed 200 hours of training and have 5 years of experience. In addition, review and staff appraisers should accumulate a minimum of 60

hours of real estate training every 3 years, including 21 hours sponsored or conducted by a professional appraisal organization. Public comments should address the adequacy of these standards and identify appropriate requirements for contract appraisers.

November 5, 1988.

James E. Cason,

Deputy Assistant Secretary of the Interior.

[FR Doc. 88-26199 Filed 11-10-88; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 390

[Docket No. R-120]

RIN 2133-AA65

Capital Construction Fund; Correction

AGENCY: Maritime Administration, DOT.

ACTION: Notice of correction in NPRM preamble.

SUMMARY: The Maritime Administration (MARAD) is correcting errors of omission in the preamble of this rulemaking action (NPRM) which appeared in the Federal Register on October 31, 1988 (53 FR 43907).

FOR FURTHER INFORMATION CONTACT: Jean E. McKeever, Chief, Division of Capital Assets Management, 400 Seventh Street SW., Washington, DC 20590 Tel: (202) 366-1905.

SUPPLEMENTARY INFORMATION: The NPRM published on October 31, 1988 proposed amendments to MARAD's Capital Construction Fund (CCF) Regulations, 46 CFR Part 390, to conform to provisions in the Tax Reform Act of 1986 (Pub. L. 99-514). This NPRM would clarify the constraints on permissible operations for qualified CCF vessels and would change the financial reporting and "Buy American" requirements, respectively. There were two inadvertent omissions of words in the **SUPPLEMENTARY INFORMATION** part of the NPRM preamble, in the discussions of "Use of CCF for Lease Payments," and "Impermissible Operations for Qualified Agreement Vessels." The first omission was a number and the second was part of one sentence and the following sentence. Accordingly, the following corrections are made in the preamble of this document at 53 FR 43907:

1. On page 43908, in the second paragraph under the heading "Use of CCF for Lease Payments," add at the end thereof after the words, "Statement

of Financial Accounting Standards No." the number "13."

2. Also on page 43908, in the paragraph under the heading, "Impermissible Operations for Qualified Agreement Vessels," revise the first two sentences to read as follows:

The present regulatory provisions at 46 CFR 390.5, defining "qualified agreement vessels," do not identify and define or describe impermissible operations for qualified agreement vessels. In order to ensure that the use of the CCF comports with the goals of the CCF program and with the overall purposes and policies of the Act, these regulations would be amended to specifically define and describe "impermissible operations" for qualified agreement vessels.

Dated: November 7, 1988.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 88-26195 Filed 11-10-88; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

Injurious Wildlife: Mitten Crabs

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to prohibit the importation of any live animal or viable eggs of mitten crabs, genus *Eriocheir*, non-indigenous crustaceans of the Family Grapsidae, into the United States by adding the genus to the list of injurious fish, mollusks, and crustaceans in 50 CFR 16.13. The best available information indicates that this action is necessary to protect the interests of agriculture, human health and safety, and existing fish and wildlife resources from potential adverse effects that could result from purposeful or accidental introduction and subsequent establishment of naturally reproducing mitten crab populations into ecosystems of the United States. If added to the list, live mitten crabs or viable eggs could only be imported by permit for scientific, medical, educational, or zoological purposes, or without a permit by Federal agencies solely for their own use; permits would also be required for the interstate transportation of live mitten crabs or viable eggs currently held in the United States for scientific, medical, educational, or zoological purposes. However, the proposal would prohibit

interstate transportation of live mitten crabs or viable eggs currently held in the United States for purposes not listed above.

DATE: Public comments addressing this proposed action must be submitted by December 29, 1988.

ADDRESS: Comments should be submitted to the Director, U.S. Fish and Wildlife Service, Division of Fish and Wildlife Management Assistance, 18th and C Streets NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Dan Bumgarner, Acting Chief, Division of Fish and Wildlife Management Assistance, Room 514, Matomic Building, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, telephone (202) 632-2202.

SUPPLEMENTARY INFORMATION:

Background

On January 26, 1987, the Service published a "Request for Information" in the *Federal Register* (52 FR 2748) announcing its intention to review available information on freshwater crabs of the genus *Eriocheir* for possible addition to the list of injurious animals within 50 CFR Part 16. The Request contained brief background material and it solicited biologic, economic, or other information concerning mitten crabs to aid the Service in determining if a proposed rule is warranted. Nearly 200 copies of the request were mailed to a variety of government agencies, organizations, associations, and individuals considered possibly to have knowledge of mitten crabs or a vested interest in the outcome of the Service's review process. The mailing included, but was not limited to:

- All State fish and game agencies;
- Conservation agencies of all Canadian Provinces and the Canadian Wildlife Service;
- Conservation agencies of Asian and European countries where mitten crabs are known to exist in the environment;
- Domestic and foreign conservation and professional organizations and associations;
- Federal agencies;
- Aquaculture specialists; and
- Business organizations.

A complete copy of the mailing list can be obtained by contacting the individual identified in the section above entitled **FOR FURTHER INFORMATION CONTACT**.

Information related to this action was also obtained in telephone conversations with, but not necessarily limited to, representatives of the academic community, wholesale food

industry, and Federal and State governments.

The Request for Information's 45-day comment period ended on March 12, 1987. Written comments were received from five respondents as follows:

Government (State)—4
Universities—1

Although all five respondents indicated support for listing mitten crabs as injurious, only one respondent provided information that, as far as was known, mitten crabs were not being raised in Florida and none had been accidentally introduced into that State. The other four respondents did not provide any information about the crabs.

In addition to the written responses, one telephone response was received expressing a desire to be included in any future mailings on the subject. This response was from a State government agency; no information was provided, however, and no indication of support or opposition to the Service's effort was stated.

In a March 17, 1987, Department of the Interior news release, the Service also informed the public that mitten crabs were being considered for addition to the list of injurious wildlife. No public comments are known to have been submitted in response to that news release.

Service involvement with mitten crabs began in 1986 when, in a September 16 letter, the California Department of Fish and Game (Department) requested that the Service prevent the importation of mitten crabs (genus *Eriocheir*) into the United States. The Department, aware that live Chinese mitten crabs (*Eriocheir sinensis*) were being legally imported from China and sold as a live food item at Asian-American food markets in the Los Angeles and San Francisco Bay Areas for \$10-\$15 per pound, was concerned that people might release live crabs into public or private waters as, for example, part of religious ceremonies or for other unspecified reasons. Such releases, the Department stated, were increasing in occurrence in the State's waters. Believing a threat to the State existed, the Department itself on June 12, 1986, initiated actions to prevent the importation, transportation, and possession of the genus *Eriocheir* in California by proposing to place it on that State's "List of Prohibited Species," and effort that resulted in the addition of the genus to that list in early 1987. The Department feared that importation could ultimately lead to the introduction and subsequent establishment of a reproducing population in the State's

natural ecosystem with concomitant adverse results to agriculture, aquatic resources, and human health.

The Department's 1987 action to prohibit importations into California has no effect on prohibiting importations throughout the rest of the United States. If importations are not prohibited nationwide, mitten crabs could ultimately establish wild populations in other geographical areas where appropriate environmental conditions exist.

The Department's September 16, 1986, letter requested that the Service examine the genus *Eriocheir* for possible prohibition of importation under the Lacey Act although only the Chinese mitten crab, *E. sinensis*, was specifically identified and discussed in the supporting documents submitted along with the letter. The literature search conducted by the Service in the process of developing this proposed rule revealed that at least three additional species of mitten crabs exist (Sakai 1976) as follows:

- E. japonicus*, found throughout Japan from Hokkaido to Okinawa, to Vladivostok, north and east coasts of Korea, Taiwan, and Hong Kong;
- E. rectus*, found on Taiwan and Mainland China to Macao; and
- E. leptognathus*, distributed along coastal areas of the Yellow Sea, from Shanghai to various localities of northern Mainland China to Korea.

A preponderance of information obtained in the Service's literature search and discussions with individuals of the academic and scientific communities dealt with the species *E. sinensis*, a fact clearly reflected in this proposed rule and other documents prepared for, and in support of, this action. However, the Service is proposing to list as injurious the entire genus *Eriocheir* because of the similarity of appearance of the species, and because all species have similar habits and utilize similar habitats (Felder and Wicksten pers. comm.); it is believed that all four species might have the same negative impacts.

Description of the Proposed Rule

The regulations contained in 50 CFR Part 16 implement the Lacey Act (18 U.S.C. 42) as amended. Under the terms of that law, the Secretary of the Interior is authorized to prescribe by regulation those nonindigenous wild animals, or viable eggs thereof, which are deemed to be injurious or potentially injurious to the health and welfare of human beings, to the interests of agriculture, forestry, and horticulture, or the welfare and survival of wildlife or wildlife resources

of the United States. If it is determined that mitten crabs of the genus *Eriocheir* are injurious, or potentially injurious, then as with all listed injurious animals, their acquisition, importation into, or transportation between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means whatsoever is prohibited except by permit for zoological, educational, medical, or scientific purpose, or by Federal agencies without a permit solely for their own use upon filing a written declaration with the district Director of Customs at the port of entry. In addition, no live mitten crab or progeny thereof acquired under permit may be sold, donated, traded, loaned, or transferred to any other person unless such person has a permit issued by the Director of the Service. The interstate transportation of any live mitten crabs or viable eggs thereof that currently may be held in the United States for purposes such as aquaculture propagation or for human consumption, or for any purpose not otherwise permitted, would be prohibited.

Distribution

The Chinese mitten crab is indigenous to the temperate zone in eastern Asia, including the east coast of Mainland China from Fuchien Province in the south, northward along the coast of the Yellow Sea, and around the west coast of the Korean Peninsula (Panning 1938). Although the species apparently prefers the coastal areas of China and Korea, it is also found upstream in river systems at considerable distances from coastal areas. For example, in the Yangtze-kiang River it occurs more than 800 miles upstream (Schmitt 1965), and in Germany's Elbe River they have been found more than 400 miles from the coast (Christiansen 1969).

As just alluded to, the Chinese mitten crab also occurs, as an introduced species, throughout the coastal areas and many river systems of temperate central Europe and cold-temperate northern Europe according to Panning (1938). He reported that the first Chinese mitten crab was taken in 1912 from Germany's Aller River, a tributary of the Weser River with a confluence approximately 60 miles from the North Sea, and surmised that the species was first introduced into Europe between 1900 and 1910 with the release into German coastal areas of ships' ballast water containing larvae taken on board in Chinese ports. During the next two decades the crab expanded throughout Germany. By the 1930's it had moved westward into The Netherlands,

Belgium, and northern France (*ibid.*, Wolff and Sandee 1971) and eastward into Denmark, Norway, Sweden, Finland, and Poland (*ibid.*, Grabda 1973, Christiansen 1977). Ingle and Andrews (1976) discussed the first three isolated collections of the crab in Great Britain: Chelsea (London) in the Thames River in 1935; in the Southfields Reservoir near Castleford in 1949; and three individual crabs in the Thames River approximately 20 miles downstream from London in 1976. They believed the 1976 collections arrived in Great Britain in the ballast water of ships arriving from European ports, but did " * * not constitute a serious invasion by the species." However, Clark (1984) described a number of subsequent findings of the crab in Great Britain including annual sightings from the Humber and Ancholme Rivers (approximately 150 miles north of London) from 1976 through 1979, and again in 1984. Additionally, Clark reported that sixteen more specimens were collected from the Thames River subsequent to the 1976 account of Ingle and Andrews. It seems apparent from the accounts, therefore, that the species commonly occurs along coastal areas and into many river systems of northern Europe from France to Norway; it may be established in Great Britain although this has not been conclusively stated in available sources.

Several known collections of the crab have occurred in North America. Nepszy and Leach (1973) reported the first collection of the species from the Detroit River (between Lake St. Clair and Lake Erie) in 1965, while three more specimens were taken from commercial gillnets in Lake Erie in 1973. Theorized to have been brought to North America, as in Europe, in the ballast of cargo ships, they offered the opinion that (p. 1910):

* * * [Although] the crab is unlikely to become established in Lake Erie or the Upper Great Lakes [presumably because of natural and artificial barriers that would impede migrations to salt water for reproductive purposes] accidental introduction to an estuarine system might permit it to become established in North America. The crab is a lowland form that needs not only sea or brackish water for its propagation but also the mouths of large rivers not subject to strong currents [which evidently facilitates upstream migration] * * * The normal habitat of the adults in Europe is the bottoms and banks of freshwater rivers and estuaries; individuals prefer hard bottom and areas covered with submerged plants, which are the main food source * * * in Europe, it bypasses obstacles such as dams and survives up to 38 days in wet meadows * * *

A live Chinese mitten crab was taken from a crab trap in Louisiana's Mississippi River Delta in early 1987 (Felder pers. comm.). It is not yet known if this individual animal represents a widespread infestation or an isolated incident; the crab's origin is unknown.

Biology

Grzimek (1974) includes the Chinese mitten crab in the Suborder Brachyura, Family Grapsidae (rock crabs). In apparent recognition of the hair covering the species' claws, it is variously referred to as the wool crab (*ibid.*), Chinese mitten crab, mitten crab, and hairy-fisted crab (Ingle 1980). The species varies in color from grayish-green to dark brown with " * * * the carapace subsquare, a little broader than long with lateral margins slightly curved, rather convex in longitudinal direction, front scarcely deflexed." (pg. 96) (Christiansen 1969). Nepszy and Leach (1973) stated that the four crabs taken in Lake Erie and the Detroit River had carapace lengths of 57 to 64 mm. and carapace widths of 65 to 74 mm. Their weights ranged from 124 to 201 grams.

Panning (1938) discussed reproduction by the species as follows (pp. 365-366):

The mitten crab is, during its whole life, practically a fresh-water animal and is found hundreds of kilometers upstream in thickly infested rivers. With the development of the sex instinct, the urge for the sea also awakens in them, and in August, or after, they leave their feeding grounds, often located far inland, to move on downstream to the sea. The sex organs develop during this migration and the crabs reach puberty on the last lap of the journey through the usually brackish water in the tidal regions. In the fall they always gather to breed in large swarms in the brackish water in the lower course of the rivers * * *.

The eggs are laid within 24 hours after mating and are fastened to the small hairs on the pleopods on the underside of the abdomen with a cementlike substance which hardens in salt water. This cementlike substance hardens only in water that has a salt content of more than 2.5 percent, according to F. Buhk. The females, burdened with the weight of the eggs on the pleopods under their abdomens, choose to stay on in the deep water outside the river mouths through the winter. As soon as it gets warm in the spring the tiny larvae escape from the eggs to start to drift about free * * *. In all probability the females hunt up particularly brackish water for this purpose. In June or July, after all the larvae have left the eggs, both males and females set out for the river banks at the mouths of the rivers, where they gradually perish.

The intermittent stay in fresh water, and these long journeys far inland between birth and death, which both take place in salt water, bring about the peculiar character of the life cycle of these mitten crabs. They

cannot repeat these long journeys to reproduce every year or two, which other crawfishes do, because the distances are too great. Breeding has, therefore, been put off to the last part of their life span. But under normal circumstances this single breeding period is compensated by an enormous egg production * * *.

Whereas the eggs need pure salt water to mature, the larvae leave the eggs in very brackish water * * *. These larvae probably move gradually into less brackish water * * *.

This migration from salt to fresh water in the larval stage and from fresh water to salt water as adults toward the end of their life, is a distinguishing habit of the mitten crab * * *.

Panning attributed the upstream migration into waters beyond tidal influence to the tremendous number of crabs and inadequate forage. He reported that the species is omnivorous; it primarily eats vegetable matter although a portion of its diet includes " * * * worms, * * * mussels and snails, inferior crustaceans, water insects, insect larvae, and * * * dead * * * organic [matter] * * *" (pg. 371). He also stated that the crab consumes fish trapped in nets although a study of the stomach contents of 1,000 crabs revealed only four or five with fish in them; it was not determined whether these remains were of netted, free-swimming, or dead fish.

Control

Several methods of controlling mitten crabs in Europe are described in literature sources; apparently, none of these methods are completely effective in controlling their migratory movements or geographical spread. It is doubtful that these methods would be any more practical or effective in the United States than they are in Europe.

Panning (1938) has stated that, once established, control of mitten crabs is best effected just below barriers (e.g., dams) that obstruct their upstream migrations. As the crabs leave the water in efforts to bypass the barriers, they are directed by means of sheet metal into collection pits. He also stated that crabs moving upstream and downstream were collected at dams from eel basket pots. In Germany during 1936 and 1937, nearly 580,000 pounds and 420,000 pounds, respectively, were collected by these methods. Other means of control were not considered by Panning to be efficacious. More recently, Halsband (1968) described the use in Germany of electrical screens installed on river bottoms to block the movements of crabs during migration; electrical pulses at a frequency of 30-40 per minute were found to disable, then kill the crabs. Schmitt (1965) reported that efforts were

unsuccessful in Europe to market the large numbers of migrating crabs collected from river systems. Panning (1938) mentioned that crabs taken in Germany were used to feed pigs, ducks and fish; these uses, however, were unprofitable and other more economically viable, but unidentified, solutions were being sought.

In mainland China where availability fluctuates, the species is commercially harvested from November through February. Until their recent listing by California as a prohibited species, Chinese mitten crabs were known to have been imported legally into that State and sold at \$10-15 per pound as a specialty, live food item at small Asian-American food markets in the San Francisco Bay and Los Angeles areas. Their appearance in food markets was sporadic (California Department of Fish and Game 1986). No information is currently available to indicate that live crabs are either imported for sale as a live food item in Asian-American food markets in other States, or produced in aquaculture in the United States. Such actions, however, are conceivable in the future given the retail prices at which they recently sold in California.

Affected Environment

The average yearly temperature (extending down to 100 meters) of water in the Yellow Sea off the coast of mainland China and Korea is approximately 15 to 25 degrees centigrade, while the average yearly surface temperature in the North and Baltic Seas in Northern Europe and Scandinavia is approximately 10 to 15 degrees centigrade (Williams *et al.* 1968). According to this source, these same average temperatures exist along most of North America's coastal areas, from Nova Scotia to Florida in the East, and from the Queen Charlotte Islands, British Columbia to the Baja Peninsula in the West. The average yearly surface temperature of water in the Gulf of Mexico is given as approximately 25 degrees centigrade.

Additionally and as previously stated, during the reproductive process hardening of the substance that cements the eggs to the pleopods occurs in water with a salt content greater than 2.5 percent (interpreted to mean 25 parts per thousand), a factor that would not be likely to significantly restrict establishment and expansion of the species into estuaries and upstream into wide, slow moving river systems of the United States.

Literature Cited

Citations for all references listed in this Proposed Rule appear in the Environmental Assessment, copies of which are available by contacting the individual identified in the section above entitled **FOR FURTHER INFORMATION CONTACT**.

Need for the Proposed Rule—Environmental Consequences

The Service believes this proposal is needed based on currently available evidence which suggests that importation of live mitten crabs or viable eggs thereof, their release, and subsequent establishment of naturally reproducing populations in ecosystems of the United States could pose a real, or potential, threat of undetermined extent to the interest of agriculture, human health and safety, and existing fish and wildlife resources as follows:

1. Agriculture—by destruction of levee systems and earth fill irrigation canals resulting from their burrowing behavior. The species is known to seriously undermine streambanks and earthen levee and irrigation systems. According to Chivers (1986), it has caused millions of dollars of damage to dikes in Germany and The Netherlands as a result of its burrowing behavior. Their tunnels, which may number up to 30 per square meter, are believed to provide protection from birds and other crabs during the moulting process (Ingle 1986). Extensive burrowing activities over time could result in the collapse of riverbanks or levees with significant impacts likely to occur to the interests of agriculture.

2. Human health and safety—by serving as an intermediate host to the Oriental lung fluke *Paragonimus westermani*. Human beings are final hosts in the life cycle of this internal parasite that commonly occurs throughout the Orient. The Chinese mitten crab provides an essential link in the life cycle of the Oriental lung fluke, *P. westermani*, by serving as a second intermediate host of the parasite. *P. westermani* is not known to exist in the United States although the closely related lung fluke *P. kellicotti* has been found in pigs and cats in South Carolina, Mississippi and Louisiana (Nash pers. comm.). According to Burch (pers. comm.), freshwater snails of the Family thiaridae (several species of which have been introduced into Hawaii, Florida, Texas, and Arizona) and the closely related Family Pleuroceridae (representatives of which are native to the United States and common in the South) serve as first intermediate hosts of the fluke. Mannals, including humans, dogs, cats, raccons, opossums, and fox

could serve as final hosts. Comon in Asia, *P. westermani* is transmitted in raw or undercooked crab meat or in the crab's body fluids. Schmitt (1965) states (pg. 184):

* * * in countries where the lung fluke is prevalent it is a greater scourge than the hookworm. Not only does it invade the lungs, producing a chronic cough, blood spitting, and an anemic condition, but it penetrates the brain as well, giving rise to * * * afflictions that have been variously diagnosed as infantile paralysis, cerebral hemorrhage, encephalitis * * *

P. westermani is also known to move to the heart in severe infestations such as when it is undiagnosed and, according to Durio (pers. comm.), both heart and brain infestations can cause death.

3. Wildlife resources—by serving as an intermediate host to the Oriental lung fluke *P. westermani*. As with humans, a number of wildlife species could become infected with the lung fluke and function in the life cycle of the parasite as final hosts.

4. Fish resources—by providing interspecific competition to indigenous crustaceans, mitten crabs could displace native species. It has been stated that the species could prove harmful to native crustaceans and other aquatic resources (Parnell 1986), presumably by competing for available food resources, or as stated by Wicksten (1986) by introducing diseases and parasites (other than the lung fluke) for which native species would show little or no tolerance.

Information on the impacts of introducing the mitten crab in the United States is generally incomplete and unavailable at this time. Unless actually introduced and established in the United States, the long-term effects on agriculture, human health and safety, and existing fish and wildlife resources are not known. Based on the history of other exotic introductions and the ecology of the mitten crab, its introduction into the United States should be avoided. The Service has determined that addition of mitten crabs and viable eggs thereof to the list of injurious fish, mollusks, and crustaceans in 50 CFR 16.13 is the only means available to achieve this result.

Required Determinations

An assessment of the environmental effects of this proposed rule has been prepared and a determination has been made that the proposal is not a major Federal action under the National Environmental Policy Act. It has also been determined that this proposal is not a major rule under Executive Order 12291. In addition, the best available information indicates that no live mitten

crabs or viable eggs thereof are known to be imported for human consumption, or propagated at aquaculture facilities, and the proposed rule is not expected to have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act. Although the prohibitions imposed by this Rule will not significantly affect the human environment in the United States, the importation and spread of the mitten crab, without imposing these restrictions, could pose a potential adverse impact on agriculture, human health and safety, and fish and wildlife resources. Since data on the impacts of this crab on the resources of the United States are incomplete and unavailable, a rigorous evaluation of impacts is not possible.

The Environmental Assessment, the Determination of Effects of Rule, and all supporting documents are available for public inspection during regular business hours of 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Service's Division of Fish and Wildlife Management Assistance, Room 514, 1717 H Street, NW., Washington, D.C.

Information Collection Requirements

This proposed rule contains no information collection requirements for which Office of Management and Budget approval is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Author

The author of this proposed rule is Jeffrey Lorenz Horwath, Wildlife Biologist, Division of Fish and Wildlife Management Assistance, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 16

Fish, Fish and Wildlife Service, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

PART 16—INJURIOUS WILDLIFE

Accordingly, 50 CFR Part 16 is proposed to be amended as described below:

1. The authority for Part 16 continues to read as follows:

Authority: Lacey Act, 74 Stat. 754 (18 U.S.C. 42)

2. § 16.13 Paragraph (a)(1) is revised to read as follows:

§ 16.13 Importation of live or dead fish, mollusks, and crustaceans, or their eggs.

(a)(1) The importation, transportation, or acquisition is prohibited of any:

(i) Live fish or viable eggs of the family Clariidae; and

(ii) Live crustaceans or viable eggs of mitten crabs, genus *Eriocheir*: Provided, that the Director shall issue permits authorizing the importation, transportation, and possession of such live fish or crustaceans or viable eggs under the terms and conditions set forth in § 16.22.

* * * * *
Dated: October 25, 1988.

Susan Recce,

Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior.

[FR Doc. 88-26162 Filed 11-10-88; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Findings on Petitions to List Populations of the Western Snowy Plover and the California Mountain Lion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of findings on petitions.

SUMMARY: The U.S. Fish and Wildlife Service announces 90-day petition findings for two petitions to amend the Lists of Endangered and Threatened Wildlife and Plants. Substantial information has been presented that a petition to list coastal western snowy plovers may be warranted. Substantial information has not been presented that listing a Santa Monica Mountains population of the California mountain lion may be warranted.

DATES: The findings announced in this notice were made in July 1988. Comments and information may be submitted until further notice.

ADDRESSES: Information, comments, or questions regarding the coastal western snowy plover petition may be submitted to the Supervisor, Fish and Wildlife Enhancement Field Station, 727 N.E. 24th Avenue, Portland, Oregon 97232. Information, comments, or questions regarding the Santa Monica Mountains mountain lion petition may be submitted to the Field Supervisor, Fish and Wildlife Enhancement Field Station, Federal Building, 24000 Avila Road, Laguna Niguel, California 92677. The petitions, findings, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above addresses.

FOR FURTHER INFORMATION CONTACT: Mr. Russell D. Peterson, at the above Portland, Oregon, Field Station address (telephone 503/231-6179 or FTS 429-

6179); Ms. Nancy Kaufman, at the above Laguna Niguel, California, Field Station address (telephone 714/643-4270 or FTS 796-4270).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973 (Act), as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that the U.S. Fish and Wildlife Service (Service) make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the Federal Register. If the finding is positive, the Service is also required to promptly commence a review of the status of the involved species. The Service has received and made 90-day findings on the following petitions.

A petition from Dr. J. P. Myers, Senior Vice President, National Audubon Society, was dated March 11, 1988, and received on March 24, 1988. It requested that a Pacific coast population of the western snowy plover, *Charadrius alexandrinus nivosus*, be added to the list of threatened species. The petitioner submitted information documenting the decline of, current status of, and threats to coastal western snowy plovers. The number of birds nesting in coastal Washington, Oregon, and California, has declined by about 50 percent in the past two decades despite protective efforts by the affected States. Primary factors have been habitat loss and alteration from recreation, coastal developments, and introduction of European beach grass. Nest abandonment and predation have also been significant. Questions pertaining to the significance of interchange between coastal and interior stocks of the subspecies and demarcation of the subspecies itself remain to be answered. Nonetheless, the Service found that the petition presented substantial information indicating that the requested action may be warranted. Formal review of the status of the entire subspecies *Charadrius alexandrinus nivosus* has been in progress since the Service's December 30, 1982 vertebrate notice of review (47 FR 58454).

A petition from Mr. Sean Manion, on behalf of the Topanga-Las Virgenes Resource Conservation District of California, was dated April 12, 1988, and received on April 25, 1988. The petitioner requested that a Santa Monica Mountains population of the

California mountain lion (*Felis concolor californica*) be added to the list of endangered species. After review of the petition and supporting documentation, the Fish and Wildlife Service finds that the petition does not present substantial information that the requested action may be warranted.

The range of the California mountain lion encompasses most of California, southern Oregon, western Nevada, and southern Baja California, Mexico. The lion is distributed throughout the majority of its historic range and the population appears to be stable or increasing. Although the petition presents information suggesting deterioration of the lions' habitat in the Santa Monica mountains, there is insufficient evidence that would support a determination that these animals constitute a completely isolated subpopulation or that the status of the species, as a whole, is declining over all or a significant portion of its range.

Author

This notice was prepared by Ms. Jackie Campbell, U.S. Fish and Wildlife Service, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231-6150 or FTS 429-6150).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-625, 100 Stat. 3500 (1986), unless otherwise noted.

List of Subjects in 50 CFR Part 17

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

Dated: October 26, 1988.

Susan Recce

Assistant Secretary for Fish and Wildlife and Parks

[FR Doc. 88-26188 Filed 11-10-88; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 18

Marine Mammals; Native Exemptions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (hereafter the Service) proposes to amend the regulations implementing the Marine Mammal Protection Act of 1972 (the Act), 16 U.S.C. 1361-1407: 50

CFR 18. Recent U.S. District Court decisions in Alaska have called for a thorough administrative review of the taking of northern sea otters (*Enhydra lutris lutris*) under the native exemptions section of the regulations (50 CFR 18.23). The Service has conducted a preliminary analysis of all available information, including historical evidence, legislative history, and past policy statements and guidelines relating to the Alaska Native use of the sea otter in handicrafts and clothing. Sea otters apparently were not being taken for such purposes when Congress passed the Act, nor had they been taken legally within living memory by Alaska Natives. The clear intent of Congress in passing the Act was to preserve existing native uses of marine mammals rather than to promote expansion of Alaskan arts and crafts industries or the creation of new industries. Therefore, the Service interprets the Act and its existing regulations to prohibit the taking of sea otters by Alaska Natives for use in creating and selling handicrafts and clothing, and the Service proposes to amend the definition of "authentic native articles of handicrafts and clothing" to clearly state this interpretation. In keeping with the paramount objective of Congress to protect marine mammals, this amendment to the regulations is intended to supersede and inconsistent Service policy guidelines and resolve the existing controversy over the allowable native uses of the sea otter. Alaska Natives would continue to be permitted to take this species for subsistence purposes.

DATE: Comments must be submitted by January 13, 1989.

ADDRESSES: Comments and materials concerning this notice should be sent to the Director, U.S. Fish and Wildlife Service, P.O. Box 28006, Washington, DC 20038-8006. Comments and materials may be delivered to the U.S. Fish and Wildlife Service, Division of Law Enforcement, Room 300, Hamilton Building, 1375 K Street NW., Washington, DC, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Thomas L. Striegler at the above address [(202) 343-9242 or FTS 343-9242].

SUPPLEMENTARY INFORMATION:

Existing Regulations

The Act provides for a moratorium on the taking and importation of marine mammals and marine mammal products, including the northern sea otter (*Enhydra lutris lutris*). However,

Congress created a limited exemption for Alaska Natives. 16 U.S.C. 1371(b) provides, in relevant part:

Except as provided in section 1379 of this title, the provisions of this chapter shall not apply with respect to the taking of any marine mammal by any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking—

(1) Is for subsistence purposes; or
(2) Is done for the purposes of creating and selling authentic native articles of handicrafts and clothing: *Provided*, That only authentic native articles of handicrafts and clothing may be sold in interstate commerce: *And provided further*, That any edible portion of marine mammals may be sold in native villages and towns in Alaska or for native consumption. For the purposes of this subsection, the term "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to weaving, carving, stitching, sewing, lacing, beading, drawing, and painting; and

(3) In each case, is not accomplished in a wasteful manner.

Pursuant to the authority granted in 16 U.S.C. 1382, the Service promulgated regulations to implement the Act on December 21, 1972 (37 FR 28173) and substantially amended on February 25, 1974 (39 FR 7262). 50 CFR 18.3 provides, in pertinent part that "Authentic native articles of handicrafts and clothing" means items made by an Indian, Aleut, or Eskimo which (a) were commonly produced on or before December 21, 1972, and (b) are composed wholly or in some significant respect of natural materials, and (c) are significantly altered from their natural form and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or similar mass copying devices. Improved methods of production utilizing modern implements such as sewing machines or modern techniques at a tannery registered pursuant to section 18.23(c) may be used so long as no large scale mass production industry results.

The native exemptions section of the regulations (50 CFR 18.23) provides, in relevant part that except as otherwise provided in Part 403 of this Title, any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean may take any marine mammal without a permit, subject to the restrictions contained in this section, if such taking is: (1) For subsistence purposes, or (2) For purposes of creating and selling authentic native articles of handicraft and clothing, and (3) In each case, not accomplished in a wasteful manner.

Historic Uses

Since 1741, the date of the earliest exploitation of sea otter populations for the fur trade, there has been virtually no use of sea otters by Alaska Natives. Native takings were largely precluded, and in fact prohibited by the Russians and later by Alaska statutes during the 18th and 19th century fur trade. There is evidence of certain uses of sea otter pelts and parts in Alaska prior to 1741. However, Alaska Natives have apparently not commonly produced and sold handicrafts or clothing from sea otters within living memory.

Congressional Intent

The paramount objective of Congress in passing the Act was the protection of marine mammals. Congress allowed the taking of marine mammals by Alaska Natives to continue as those practices existed at the time of the passage of the Act, but did not provide for the development of new uses or the expansion of taking by natives. Congress intended to preserve existing native uses of marine mammals, characterized as the maintenance of "cottage industries", rather than to promote economic development or the growth of Alaskan arts and crafts industries. The fact that sea otter handicrafts have not been commonly produced for more than 200 years makes it impossible to consider them a part of the "cottage industry" or status quo Congress was exempting from the provisions of the Act. The native exemptions were passed with the implicit understanding that the patterns of native taking and use of marine mammals would remain as they were in 1972, at the time of passage of the Act. For the sea otter, this would allow essentially no take by Alaska Natives for the commercialization of handicrafts and clothing. In the words of United States District Judge Holland, ruling the *Maria Rena Katelnikoff v. U.S. Department of the Interior, et al.*, A85-336 Civ. (D.C. Alaska; July 21, 1986):

* * * it is entirely conceivable that the regulation at issue could leave Alaska Natives with virtually no uses of sea otters and still be consistent with the congressional intent to preserve traditional lifestyles and handicrafts.

In keeping with the purpose of Congress in passing the Act, the Service believes that exemptions from the moratorium which permit limited taking of marine mammals should be construed narrowly. By amending the marine mammal regulations in 50 CFR 18 to clarify their application to the sea otter, the Service will comply with

congressional intent and supersede any inconsistent policy guidelines and rulings, thereby resolving the existing controversy over the allowable native uses of this species.

Note.—The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this proposed rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Additionally, there are no information collection requirements contained in this document that require Office of Management and Budget clearance under 44 U.S.C. 3501. Since there has been no lawful, commercial use of sea otters by Alaska Natives for more than 200 years, there will be no economic impacts on the public, individual industries, or Federal, state, or local governments. The only effect of this rule will be to eliminate the confusion and controversy which have resulted from the misinterpretation of congressional intent, previous regulatory language, and policy guidelines regarding the allowable native uses of the sea otter.

The Service has determined that an environmental assessment, as defined

under the authority of the National Environmental Policy Act of 1969, need not be prepared for this action. Since the proposed rule reflects the statutory language and intent of Congress in the Act, this document is considered an amendment to an approved action having no potential for causing substantial environmental impact, and thus qualifies as a categorical exclusion from National Environmental Policy Act requirements under 516 DM 6, Appendix 1, Section 1.4(A)(1). The primary author of this document is Special Agent Michael Sutton, Division of Law Enforcement, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Alaska, Imports, Marine mammals, Transportation.

Regulation Promulgation

PART 18—[AMENDED]

For the reasons set forth in the preamble, Part 18, Subchapter B of

Chapter I, Title 50 of the Code of Federal Regulations is proposed to be amended as set forth below:

1. The authority citation for Part 18 continues to read as follows:

Authority: Marine Mammal Protection Act of 1972, as amended (Pub. L. 92-522, 88 Stat. 1027; Pub. L. 97-58, 95 Stat. 979 (16 U.S.C. 1361-1407)).

§ 18.3 [Amended]

2. Section 18.3 is amended by adding the following sentence to the end of the definition of "Authentic native articles of handicrafts and clothing": "*Provided that, it has been determined that no items created in whole or in part from sea otter meet paragraph (a) of this definition, and therefore no such items may be sold.*"

Dated: October 17, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-26085 Filed 11-10-88; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register

Vol. 53, No. 219

Monday, November 14, 1988

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

DEPARTMENT OF AGRICULTURE

Office of International Cooperation and Development; Availability of Funds; Southern University

AGENCY: Office of International Cooperation and Development (OICD), USDA.

ACTION: Notice of intent.

Activity: OICD intends to enter into an agreement with Southern University for the adaptation and introduction of Solar Box Cooker Technology in Sierra Leone.

Authority: Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 USC 3291), and the Food Security Act of 1985 (Pub. L. 99-198).

OICD anticipates the availability of funds in fiscal year 1989 (FY1989) to provide funding support to Southern University to aid in alleviating two related problems that impact on the nutritional status of poor and rural people in developing countries; i.e., the need for fuel-saving techniques for cooking food, and a method to increase available potable water at the home/village level. Funds will be utilized for adapting and developing solar box cooker technology for cooking food and water quality improvement.

Assistance will be provided only to the University which will utilize funds to support purchase of equipment, test foods, and for chemical/bacteriological analyses.

Based on the above, this is not a formal request for application. An estimated \$7400 will be available in FY1989 as partial support for this project.

Information on proposed Agreement #58-319R-9-006 may be obtained from:

USDA/OICD/Management Services Branch, Washington, DC 20250-4300.

Nancy J. Croft,
Contracting Officer.

Date: November 8, 1988.

[FR Doc. 88-26190 Filed 11-10-88; 8:45am]

BILLING CODE 3410-DP-M

Animal and Plant Health Inspection Service

[Docket No. 88-166]

National Animal Damage Control Advisory Committee; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: We are giving notice of a meeting of the National Animal Damage Control Advisory Committee.

Meeting Places, Dates, and Times: The meeting will be held at the Denver Wildlife Research Center, Building 16, Federal Center, Lakewood, CO 80228, November 28, from 1:30 p.m. to 5 p.m. The meeting will also be held at the Sheraton Hotel and Conference Center, 360 Union Blvd., Lakewood, CO 80228, on November 29 from 8 a.m. to 5 p.m., and November 30 from 8 a.m. to noon.

FOR FURTHER INFORMATION CONTACT: C. Joe Packham, Acting Deputy Administrator, ADC, APHIS, USDA, Room 1624, South Building, 14th and Independence Avenue SW., Washington, DC 20090-6464, (202) 447-2054.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Secretary of Agriculture concerning policies, program issues, and research needed to conduct the Animal Damage Control Program. Committee members will discuss these matters during the meeting, which will be open to the public. Members of the public will be unable to participate in the meeting. However, written statements concerning the Animal Damage Control Program can be sent to C. Joe Packham at the address listed under **FOR FURTHER INFORMATION CONTACT**. These statements may be submitted before or after the meeting. Please refer to Docket Number 88-166 when submitting your comments.

This notice is given in compliance with the Federal Advisory Committee Act (Pub. L. 92-463).

Done in Washington, DC, this 8th day of November, 1988.

Larry B. Slagle,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-26178 Filed 11-10-88; 8:45 am]

BILLING CODE 3410-34-M

Farmers Home Administration

Housing Preservation Grant Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) announces that it is soliciting competitive applications under its Housing Preservation Grant ((HPG) program. FmHA hereby announces that it will receive preapplications in December 1, 1988, and for 90 days thereafter.

DATE: The closing date for acceptance by FmHA of preapplications is February 28, 1989. Preapplications must be received by or postmarked on or before this date.

ADDRESSES: Submit preapplications to FmHA field offices; applicants must contact their State FmHA Office for this information.

FOR FURTHER INFORMATION CONTACT: Sue M. Harris, Loan Officer, Multi-Family Processing Division, FmHA, USDA, Room 5337, South Agriculture Building, Washington, DC 20250, telephone (202) 382-1660 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: 7 CFR Part 1944, Subpart N provides details on what information must be contained in the preapplication package. (See 51 FR 17443 published May 13, 1986). Entities wishing to apply for assistance should contact the FmHA State Office to receive further information and copies of the application package. Eligible entities for these competitively awarded grants include State and local governments, nonprofit corporations, Federally recognized Indian Tribes, and consortia of eligible entities.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.433—Housing Preservation Grants. This program is subject to the

provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V; 49 FR 29112, June 24, 1983). Applicants are also referred to 7 CFR Part 1944, § 1944.674 and 1944.676(d) and (e) for specific guidance on these requirements relative to the HPG program.

The funding instrument for the Housing Preservation Grant program will be a grant agreement. The term of the grant can vary from 1 to 2 years, depending on available funds and demand. No maximum or minimum grant levels have been set, although, based on FY 1987 and FY 1988 experience, the Agency anticipates that the average grant will be between \$100,000 and \$150,000 for a one-year proposal. For FY 1989, \$19,140,000 is available and has been distributed under a formula allocation to States pursuant to 7 CFR Part 1940, Subpart L, Methodology and Formulas for Allocation of Loan and Grant Funds.

Applications will be reviewed and rated on the project selection criteria contained in the regulations for the program.

Decisions on funding will be based on the preapplications and notices of action on the preapplications should be made within 60 days of the closing date.

Date: November 7, 1988.

Vance L. Clark,
Administrator, Farmers Home
Administration.

[FR Doc. 88-26247 Filed 11-10-88; 8:45 am]

BILLING CODE 3410-07-M

ARMS CONTROL AND DISARMAMENT AGENCY

U.S. Arms Control and Disarmament Agency; the President's General Advisory Committee on Arms Control and Disarmament; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following Presidential Committee meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: December 6, 1988.

Time: 8:30 a.m.

Place: State Department Building, Washington, DC.

Type of Meeting: Closed.

Contact: William C. Golbitz, Executive Director, General Advisory Committee on Arms Control and Disarmament, Room 5927, Washington, DC 20451. (202)-647-5178.

Purpose of Advisory U.S. Committee: To advise the President, the Secretary of

State, and Director of the Arms Control and Disarmament Agency respecting matters affecting arms control, disarmament, and world peace.

Agenda: The Committee will review specific arms control and related treaty issues; an Executive session will be held.

Reason for Closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.

Authority to Close Meeting: The closing of this meeting is in accordance with a determination by the Director of the Arms Control and the Disarmament Agency dated November 4, 1988, made pursuant to the provisions of section 10 (d) of the Federal Advisory Committee Act as amended.

William J. Montgomery,

Committee Management Officer.

[FR Doc. 88-26133 Filed 11-10-88; 8:45 am]

BILLING CODE 6820-32-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: Bureau of the Census.

Title: 1987 Economic Censuses Self-Employment Classification Form.

Form Number: CB-9924.

Type of Request: New.

Burden: 5,833 hours.

Avg Hours per Response: 14 minutes (approximately).

Number of Responses: 25,000.

Needs and Uses: This survey is part of the Economic Censuses which are the primary source of facts about the structure and functioning of the Nation's economy and provide essential information for government, business, and the general public. This information collection is needed to assure the quality of data for establishments without payroll.

Affected Public: Businesses and other for-profit.

Frequency: One-time.

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 H6622,

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: November 7, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-26227 Filed 11-10-88; 8:45 am]

BILLING CODE 3510-07-M

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: Bureau of the Census.

Title: Current Industrial Reports Program (Wave III Voluntary).

Form Number: M37L.

Type of Request: Extension.

Burden: 1,200 hours.

Avg Hours per Response: 35 minutes.

Number of Responses: 2,058.

Needs and Uses: The Current Industrial Reports program collects and publishes 7-digit product information on over 5,000 manufactured products from 44,000 manufacturing firms. Survey results are available monthly, quarterly, and annually. Other Government agencies use the data to analyze specific commodities and industries.

Affected Public: Businesses or other for-profit.

Frequency: Annually/Monthly.

Respondent's Obligation: Monthly—Voluntary, Annual—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 H6622, 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: November 7, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-26228 Filed 11-10-88; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[A-484-801]

Electrolytic Manganese Dioxide From Greece; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain electrolytic manganese dioxide from Greece is being, or is likely to be, sold in the United States at less than fair value. We also preliminarily determine that critical circumstances exist with respect to imports of electrolytic manganese dioxide from Greece. We have notified the International Trade Commission of our determination and have directed the U.S. Customs Service to suspend the liquidation of all entries of electrolytic manganese dioxide from Greece as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by January 23, 1989.

EFFECTIVE DATE: November 14, 1988.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro (202) 377-2923 or Holly Kuga (202) 377-1130, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that certain electrolytic manganese dioxide ("EMD") from Greece is being, or is likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The margins of sales at less than fair value are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initiation (53 FR 24114, June 27, 1988), the following events have occurred. On July 15, 1988, the International Trade Commission ("ITC") found that there is a reasonable

indication that imports of EMD from Greece are materially injuring, or threatening material injury to, a U.S. industry (U.S. ITC Pub. No. 2097, July 1988).

On August 18, 1988, we presented questionnaires to counsel for Tosoh Hellas, A.I.C. ("Tosoh Hellas"), the sole manufacturer of EMD from Greece. On September 13, 1988 and October 3, 1988, we received the responses to our questionnaire covering the period from December 1, 1987 through May 31, 1988.

Scope of the Investigation

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the U.S. tariff schedules will be fully converted to this Harmonized Tariff Schedule ("HTS"). Until that time, the Department of Commerce ("the Department") will be providing both the appropriate Tariff Schedules of the United States Annotated ("TSUSA") item numbers and the appropriate HTS item numbers with our product descriptions on a test basis. As with the TSUSA, the HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HTS item numbers as well as the TSUSA item numbers in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

The product covered by this investigation is electrolytic manganese dioxide from Greece currently classifiable under TSUSA item number 419.4420 and HTS item number 2820.10.0000.

EMD is manganese dioxide (MnO₂) that has been refined in an electrolysis process. The subject merchandise is an intermediate product used in the production of dry cell batteries. EMD is sold in three physical forms, powder, chip or plate, and two grades, alkaline and zinc chloride. EMD in all three forms and both grades is included in the scope of the investigation.

Fair Value Comparisons

To determine whether sales of EMD in the United States were made at less than fair value, we compared the United

States price to the foreign market value as specified below.

We made comparisons on all sales of the product during the period of investigation December 1, 1987 through May 31, 1988.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for the sales by Tosoh Hellas to unrelated customers in the United States, all of which were made through a related trading company. We used purchase price as the basis for determining United States price since the following criteria were met: (1) The merchandise was sold to unrelated purchasers in the U.S. prior to importation; (2) the merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related selling agent; (3) this was the customary commercial channel for sales of this merchandise between the parties involved; (4) the related selling agent acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyer.

Purchase price was based on the C.I.F. and F.O.B. (foreign port) price to unrelated purchasers in the United States. Where applicable, we made deductions for foreign inland freight and insurance, brokerage and handling, ocean freight, marine insurance, export licensing fees, U.S. inland freight, as well as additions for import duties, import taxes and value-added taxes not collected on exports of the merchandise.

Foreign Market Value

In accordance with section 773(a) of the Act, we determined that there were sufficient home market sales of such or similar merchandise by Tosoh Hellas to form the basis for foreign market value. For this reason, we have not applied the special rule for certain multinational corporations contained in section 773(d) of the Act as requested by petitioner. Petitioner alleged that home market sales were made at less than the cost of production. We compared the home market prices exclusive of value-added tax to the cost of production, which included materials, fabrication costs, and selling, general, and administration expenses. The Department used all home market sales in its comparison since all sales were preliminarily found to be made at or above the cost of production.

Home market price was based on the delivered and "free on truck" price to

unrelated purchasers in the home market. We deducted inland freight and home market packing, and added U.S. packing. We made a circumstance of sale adjustment for differences in credit, value-added taxes and royalty expenses between the two markets.

Currency Conversions

We used the exchange rate described in § 353.56(a)(1) of our regulations. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Preliminary Determination of Critical Circumstances

Petitioner alleged that imports of EMD from Greece present "critical circumstances." Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value, and

(B) There have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

For purposes of this finding, we analyzed recent U.S. import statistics for EMD from Greece for equal periods immediately preceding and following the filing of the petition to determine if there have been massive imports. We also took into consideration average import levels and seasonal factors. Based on this analysis, we find that there is a reasonable basis to believe or suspect that imports of the subject merchandise from Greece have been massive over a relatively short period of time. Therefore, we find that the requirements of section 733(e)(1)(B) are met.

We examined recent antidumping duty cases and found that there are currently no findings in the United States or elsewhere of dumping of the subject merchandise by Greek manufacturers, producers, and

exporters. However, it is our standard practice to infer knowledge of dumping under section 733(e)(1)(A)(ii) of the Act if the estimated margins in our determinations are of such a magnitude that the importer should realize that dumping exists with regard to the subject merchandise. Normally we consider estimated margins of 25 percent or greater to be sufficient [See, e.g., *Final Antidumping Duty Determination of Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Italy* (52 FR 24198, June 29, 1987)]. Since the estimated margin for Tosoh Hellas exceeds 25 percent, we find that the requirements of section 733(e)(1)(A)(ii) are met as well. Therefore, we preliminarily determine that critical circumstances exist for Tosoh Hellas.

Verification

As provided in section 776(b) of the Act, we will verify all information used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of EMD from Greece that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. Because we have preliminarily determined that critical circumstances exist with respect to entries of the subject merchandise from Greece, (see, "Critical Circumstances" section of this notice), we are further instructing the U.S. Customs Service to suspend liquidation of such entries that are entered, or withdrawn from warehouse, for consumption, on or after the date which is 90 days prior to the date of publication of this notice in the **Federal Register**, in accordance with section 733(e)(2) of the Act.

The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated amounts by which the foreign market values of the merchandise subject to this investigation exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Tosoh Hellas.....	34.03
All others.....	34.03

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the consent of the Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injury, or threaten material injury to, a U.S. industry before the later of 120 days after we made our preliminary affirmative determination or 45 days after our final determination, if affirmative.

Public Comment

In accordance with § 353.47 of the Department's regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, United States Department of Commerce, Room B-099, 14th Street and Constitution Avenue NW., Washington, DC 20230. After requests for hearings are received, we will notify all interested parties of the date, time, and place of the hearing.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, fifteen copies of the business proprietary version and seven copies of the nonproprietary version of the prehearing briefs must be submitted to the Assistant Secretary at least seven days prior to the scheduled date of the public hearing. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, and will be considered if received not less than 30 days before the final determination is due or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Jan W. Mares,
Assistant Secretary for Import
Administration.

Date: November 7, 1988.

[FR Doc. 88-26229 Filed 11-10-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-419-801]

Electrolytic Manganese Dioxide From Ireland; Preliminary Determination of No Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain electrolytic manganese dioxide from Ireland is not being, nor is likely to be, sold in the United States at less than fair value and have notified the International Trade Commission of our determination. The respondent in this investigation, the sole producer of electrolytic manganese dioxide in Ireland, Mitsui Denman Ireland, reported no sales during the period of investigation and no outstanding offers pursuant to contracts entered into prior to or during the period of investigation. If this investigation proceeds normally, we will make a final determination by January 23, 1989.

EFFECTIVE DATE: November 14, 1988.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro (202) 377-2923 or Holly Kuga (202) 377-1130, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that certain electrolytic manganese dioxide ("EMD") from Ireland is not being, nor is likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) ("the Act"). The Department found no sales or outstanding contractual obligations for sales to the United States during the period of investigation to compare with foreign value.

Case History

Since the notice of initiation (53 FR 24116, June 27, 1988), the following events have occurred. On July 15, 1988, the International Trade Commission ("ITC") found that there is a reasonable

indication that imports of EMD from Ireland are materially injuring, or threatening material injury to, a U.S. industry (U.S. ITC Pub. No. 2097, July 1988).

On August 18, 1988, we presented questionnaires to counsel for Mitsui Denman Ireland ("MDI"), the sole manufacturer of EMD from Ireland. On August 31, 1988, we received the response to our questionnaire covering the period December 1, 1987 through May 31, 1988, in which MDI reported that it had made no sales or shipments to the United States within that period.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the U.S. tariff schedules will be fully converted to this Harmonized Tariff Schedule ("HTS"). Until that time, the Department of Commerce ("the Department") will be providing both the appropriate Tariff Schedules of the United States Annotated ("TSUSA") item numbers and the appropriate HTS item numbers with our product descriptions on a test basis. As with the TSUSA, the HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HTS item numbers as well as the TSUSA item numbers in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

The product covered by this investigation is electrolytic manganese dioxide from Ireland currently classifiable under TSUSA item number 419.4420 and HTS item number 2820.10.0000.

EMD is manganese dioxide (MnO₂) that has been refined in an electrolysis process. The subject merchandise is an intermediate product used in the production of dry cell batteries. EMD is sold in three physical forms, powder, chip or plate, and two grades, alkaline and zinc chloride. EMD in all three forms and both grades is included in the scope of the investigation.

Fair Value Comparisons

To determine whether sales of EMD in the United States are made at less than fair value, we would compare the United States price to the foreign market value. In the present investigation, we were unable to make this comparison due to the absence of U.S. sales during the period of investigation ("POI"), December 1, 1987 through May 31, 1988.

The petitioner has requested that the Department extend the POI to include those sales made by MDI which correspond to United States entries made in the first half of 1987. The petitioner argues that this is the appropriate response since Irish EMD has been exported to the United States in all of the most recent years except the current one, a fact that reflects a mere depression in current sales activity. In support of this argument, the petitioner states that the Department has utilized its discretion to extend the period of investigation in a similar case of "unusually depressed sales activity" (see *Certain Iron Metal Castings from India*, 46 FR 39869 (1981)). Furthermore, petitioner argues, EMD being shipped from a related producer in Japan concurrently involved in an antidumping investigation can easily be sourced from the Irish respondent.

The Department has extended the normal six-month POI where that period did not adequately reflect the sales activity of the firms subject to the investigation. For example, where sales were made pursuant to long term contracts, the Department has extended the period in order to include the date of sale corresponding to shipments during the period. See *Certain Forged Steel Crankshafts from the United Kingdom*, 52 FR 32951 (1987). In instances where distortions would have resulted from using a POI limited to six months, as in the case of seasonally-affected sales, the Department has extended the period to eliminate such distortions. See *Certain Fresh Cut Flowers from Colombia*, 52 FR 6842 (1987). The Department has also extended the period in cases where special order or customized sales are under investigation in order to accommodate the unique circumstances involved in investigating this type of merchandise. See *Offshore Platform Jackets and Piles from Japan*, 51 FR 11788 (1986). In addition, as pointed out by the petitioner, the Department has extended the period in cases where sales activity was unusually depressed (*Castings from India*).

The facts as presented in this case indicate that there were no U.S. sales or related sales activity, such as shipments

or outstanding contractual obligations, made by MDI during the POI. Furthermore, none of the precedents applied previously, which would warrant the extension of the POI back eleven months to capture the last commercial U.S. sale, apply in this case. In making this decision the Department is particularly influenced by the fact that no seasonal or cyclical sales patterns exist with respect to EMD that would explain the absence of sales related activity for such an extended period of time. Moreover, a depression in sales related activity is typically evidenced by a smaller volume of sales within a period as opposed to complete absence from the market for a period of time which encompassed annual negotiations. For these reasons, the Department has determined that it will not extend the POI.

In a letter dated October 25, 1988, the petitioner stated that in April 1988, representatives of MDI's related trading company, Mitsui U.S., "offered to sell" a U.S. customer EMD produced by MDI. This was documented by a statement to that effect by an executive of the U.S. purchaser. However, there is no evidence that MDI's agent discussed specific price or quantity terms at that meeting.

MDI reports that no current contractual obligations remain outstanding for EMD of Irish origin. MDI further states that Irish EMD has been and remains disqualified by one major U.S. purchaser and unqualified by another major U.S. purchaser; qualification is a necessary requirement of battery producers prior to sales negotiation and purchase of the subject merchandise. For these reasons, we have preliminarily determined that no bona fide offer exists which would allow us to compare a quoted U.S. price for Irish EMD to a foreign market value.

Negative Preliminary Determination of Critical Circumstances

Petitioner alleged that "critical circumstances" exist with respect to imports of EMD from Ireland. Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value, and

(B) There have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

For purposes of this finding, we analyzed recent U.S. import statistics for EMD from Ireland for equal periods immediately preceding and following the filing of the petition. Since there are no imports reported for either of these periods, we find no basis to believe that imports of the subject merchandise from Ireland have been massive over a relatively short period of time subsequent to receipt of the petition.

Since we do not find that there have been massive imports, we do not need to consider whether there is a history of dumping or whether importers of this product knew or should have known that it was being sold at less than fair value. Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of EMD from Ireland.

Verification

As provided in section 776(b) of the Act, we will verify all information used in reaching the final determination in this investigation. In particular, we will carefully examine the question of whether there were in fact bona fide offers for sale to the United States during the POI.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a United States industry 45 days after we make our final determination, if affirmative.

Public Comment

In accordance with § 353.47 of the Department's regulations, if requested,

we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, United States Department of Commerce, Room B-099, 14th Street and Constitution Avenue NW., Washington, DC 20230. After requests for hearings are received, we will notify all interested parties of the date, time, and place of the hearing.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, fifteen copies of the business proprietary version and seven copies of the nonproprietary version of the prehearing briefs must be submitted to the Assistant Secretary at least seven days prior to the scheduled date of the public hearing. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, and will be considered if received not less than 30 days before the final determination is due or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Jan W. Mares,
Assistant Secretary for Import
Administration.

Date: November 7, 1988.
[FR Doc. 88-26230 Filed 11-10-88; 8:45 am]
BILLING CODE 3510-DS-M

[A-588-806]

Electrolytic Manganese Dioxide From Japan; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain electrolytic manganese dioxide from Japan is being, or is likely to be, sold in the United States at less than fair value. We also preliminarily determine that critical circumstances exist with respect to imports of electrolytic manganese dioxide from Japan. We have notified the International Trade Commission of our determination and have directed the U.S. Customs Service to suspend the liquidation of all entries of electrolytic

manganese dioxide from Japan as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by January 23, 1989.

EFFECTIVE DATE: November 14, 1988.

FOR FURTHER INFORMATION CONTACT:

Anne D'Alauro (202) 377-2923 or Kelly Parkhill (202) 377-1130, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that certain electrolytic manganese dioxide ("EMD") from Japan is being, or is likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The margins of sales at less than fair value are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initiation, (53 FR 24116, June 27, 1988), the following events have occurred. On July 15, 1988, the International Trade Commission ("ITC") found that there is a reasonable indication that imports of EMD from Japan are materially injuring, or threatening material injury to, a U.S. industry (U.S. ITC Pub. No. 2097, July 1988).

On August 18, 1988, we presented questionnaires to Mitsui Mining and Smelting Co., Ltd., ("MMS") and Tosoh Corporation ("Tosoh"), manufacturers of EMD from Japan. On September 13, 26 and October 3, 1988, we received replies to the questionnaires.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the U.S. tariff schedules will be fully converted to this Harmonized Tariff Schedule ("HTS"). Until that time, the Department of Commerce ("the Department") will be providing both the appropriate Tariff Schedules of the United States Annotated ("TSUSA") item numbers and the appropriate HTS item numbers with our product descriptions on a test basis. As with the TSUSA, the HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HTS item numbers as well as the TSUSA item numbers in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

The product covered by this investigation is electrolytic manganese dioxide from Japan currently classifiable under TSUSA item number 419.4420 and HTS item number 2820.10.0000.

EMD is manganese dioxide (MnO₂) that has been refined in an electrolysis process. The subject merchandise is an intermediate product used in the production of dry cell batteries. EMD is sold in three physical forms, powder, chip or plate, and two grades, alkaline and zinc chloride. EMD in all three forms and both grades is included in the scope of the investigation.

Fair Value Comparisons

To determine whether sales of EMD in the United States were made at less than fair value, we compared the United States price to the foreign market value as specified below. The period of investigation is December 1, 1987 through May 31, 1988.

With the exception of several small sales reported too late to be included in the calculations for our preliminary determination, we made comparisons on all sales of the product made by MMS and Tosoh during the period of investigation. The late-reported sales will be included in our final determination.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for all sales made by MMS and Tosoh. We used purchase price as the basis for determining United States price since the merchandise was sold to an unrelated purchaser in Japan with the knowledge that that purchaser would then export the merchandise to the United States.

Purchase price was based on the F.O.B. (foreign port) and ex-godown price to unrelated purchasers in Japan. Where applicable, we made deductions for foreign inland freight, brokerage and handling, and certain other movement expenses.

Foreign Market Value

In accordance with section 773(a) of the Act, we determined that there were sufficient home market sales of such or similar merchandise by both MMS and Tosoh to form the basis for foreign market value.

Home market price was based on the delivered price to unrelated purchasers in the home market. We deducted for inland freight, rebates, discounts, and home market packing. We added U.S. packing. We made a circumstance of sale adjustment for differences in credit between the two markets.

Preliminary Determination of Critical Circumstances

Petitioner alleged that imports of EMD from Japan present "critical circumstances." Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value, and

(B) There have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

For purposes of this finding, we analyzed recent U.S. import statistics for EMD from Japan for equal periods immediately preceding and following the filing of the petition to determine if there have been massive imports. We also took into consideration average import levels and seasonal factors. Based on this analysis, we find that there is a reasonable basis to believe or suspect that imports of the subject merchandise from Japan have been massive over a relatively short period of time. Therefore, we find that the requirements of section 733(e)(1)(B) are met.

The Department received company-specific EMD import data from Mitsui Mining and Smelting on November 3,

1988. Since we received the information late and we did not have company-specific data for the second respondent, the Department will request and consider this information in making our final determination in this case.

We examined recent antidumping duty cases and found that there are currently no findings in the United States or elsewhere of dumping of the subject merchandise by Japanese manufacturers, producers, and exporters. However, it is our standard practice to infer knowledge of dumping under section 733(e)(1)(A)(ii) of the Act if the estimated margins in our determinations are of such a magnitude that the importer should realize that dumping exists with regard to the subject merchandise. Normally we consider estimated margins of 25 percent or greater to be sufficient [See, e.g., *Final Antidumping Duty Determination of Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Italy* (52 FR 24198, June 29, 1987)]. Since the estimated margin for both MMS and Tosoh exceed 25 percent, we find that the requirements of section 733(e)(1)(A)(ii) are met as well. Therefore, we preliminarily determine that critical circumstances exist for both MMS and Tosoh.

Verification

As provided in section 776(b) of the Act, we will verify all information used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with sections 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of EMD from Japan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. Because we have preliminarily determined that critical circumstances exist with respect to entries of the subject merchandise from Japan, (see, "Critical Circumstances" section of this notice), we are further instructing the U.S. Customs Service to suspend liquidation of such entries that are entered, or withdrawn from warehouse, for consumption, on or after the date which is 90 days prior to the date of publication of this notice in the **Federal Register**, in accordance with section 733(e)(2) of the Act.

The U.S. Customs Service shall require a cash deposit or the positing of a bond equal to the estimated amounts by which the foreign market values of the merchandise subject to this

investigation exceed the United States price, as shown below.

This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
MMS.....	78.62
Tosoh.....	72.02
All others.....	73.57

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the consent of the Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a United States industry before the later of 120 days after our preliminary affirmative determination or 45 days after our final determination, if affirmative.

Public Comment

In accordance with § 353.47 of the Department's regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, United States Department of Commerce, Room B-099, 14th Street and Constitution Avenue NW., Washington, DC 20230. After requests for hearings are received, we will notify all interested parties of the date, time, and place of the hearing.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, fifteen copies of the business proprietary version and seven copies of the nonproprietary version of the prehearing briefs must be submitted to the Assistant Secretary at least seven days prior to the scheduled date of the public hearing. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 353.46, at the above address, and will be considered if received not less than 30 days before the final determination is due or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Jan W. Mares,

Assistant Secretary for Import Administration.

Date: November 7, 1988.

[FR Doc. 88-26231 Filed 11-10-88; 8:45 am]

BILLING CODE 3510-DS-M

President's Export Council; Full Council Meeting; Open Meeting

A meeting of the President's Export Council will be held November 28, 1988, at the Capital Hilton Hotel, 16th & K Streets, N.W., Washington, D.C. The Council's purpose is to advise the President on matters relating to U.S. export trade.

Full Council Meeting: 10:00 a.m.-12:30 p.m., Federal Room. The Council will issue and discuss its final report for this Presidential term. Also, discussion of the trade outlook, trade and export policy, economic policy decisions of the future, and other related trade matters.

A limited number of seats are available for the Full Council meeting. For further information or copies of the minutes, contact Sylvia Lino (202) 377-1125.

Date: November 7, 1988.

Wendy H. Smith,

Acting Director, Office of Planning and Coordination.

[FR Doc. 88-26232 Filed 11-10-88; 8:45 am]

BILLING CODE 3510-DR-M

Minority Business Development Agency

Business Development Center Applications; Tucson, AZ

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is \$165,000 in Federal funds and

a minimum of \$29,118 in non-Federal contributions for the budget period April 1, 1989 to March 31, 1990. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Tucson, Arizona geographic service area.

The I.D. Number for this project will be 09-10-89004-01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria; the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of \$50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of \$500,000 or less and 35% of the total cost for firms with gross sales of over \$500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if

funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is December 19, 1988. Applications must be postmarked on or before December 19, 1988.

ADDRESS: San Francisco Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, Room 1280, San Francisco, California 94105. 415/974-9597.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, Room 1280, San Francisco, California 94105. November 29, 1988.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance) Xavier Mena,

Regional Director, San Francisco Regional Office.

November 7, 1988.

[FR Doc. 88-26163 Filed 11-10-88; 8:45 am]

BILLING CODE 3510-21-M

Business Development Center Applications: Los Angeles, CA

AGENCY: Minority Business Development Agency, Commerce.
ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is \$622,000 in Federal funds and a minimum of \$109,765 in non-Federal contributions for the budget period May 1, 1989 to April 30, 1990. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-

kind contributions, or combinations thereof. The MBDC will operate in the Los Angeles, California geographic service area.

The I.D. Number for this project will be 09-10-89005-01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of \$50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of \$500,000 or less and 35% of the total cost for firms with gross sales of over \$500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory

performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is January 12, 1989. Applications must be postmarked on or before January 12, 1989.

ADDRESS: San Francisco Regional Office, Minority Business Development Agency, U. S. Department of Commerce, 221 Main Street, Room 1280, San Francisco, California 94105. 415/974-9597.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, Room 1280, San Francisco, California 94105. December 22, 1988.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11,800 Minority Business Development (Catalog of Federal Domestic Assistance) Xavier Mena,

Regional Director, San Francisco Regional Office.

November 7, 1988.

[FR Doc. 88-26164 Filed 11-10-88; 8:45am]

BILLING CODE 3510-21-M

[Transmittal No. 06-10-88001-01; Project I.D. No. 06-10-88001-01]

Austin Minority Business Development Center (MBDC)

Summary: The Minority Business Development Agency (MBDA) announces that it is withdrawing the solicitation to operate a Minority Business Development Center in Austin, Texas. MBDA inadvertently authorized the Federal Register to publish the announcement which appeared in its November 1, 1988 issue (53 FR 44062).

Please Note: All applications submitted to operate the Austin MBDC under the competitive solicitation published in the Federal Register (VOL. 53, No. 125, Wednesday, June 29, 1988) are being considered in the competitive review process.

The Agency apologizes for any inconvenience our error may have caused.

Bobby Jefferson,

Acting/Regional Director, Regional Office.

Date: November 7, 1988.

[FR Doc. 88-26165 Filed 11-10-88; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Taking of Marine Mammals; Application for Permit

Notice is hereby given that the Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act (16 U.S.C. 1531-1543) and the regulations governing endangered fish and wildlife.

1. *Applicant:* Dr. Bernd Wursig, Associate Professor and Mr. Salvatore Cerchio, Candidate for Master of Science, Moss Landing Marine Laboratory, P.O. Box 450, Moss Landing, California 95039-0450.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Marine Mammals:* Humpback whales (*Megaptera Novaeangliae*) 100.

4. *Type of Take:* Harassment during photographic activities. Photographs will be taken to identify recorded singers. By comparing the photo-ID's of each recorded singer it can be determined if each recording represents a different individual. The photographs will also be used to investigate the hypothesis which considers the possibility that differences in the songs between individuals may be due to the existence of sub-populations and thus serve as a signature. All whale song recordings will be done from a distance well over 100 meters.

5. *Location and Duration of Activity:* East coast of Kauai, Hawaii for a 1-year period.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC, within 30 days of publication of this notice. Those individuals requesting a hearing should set forth the specific

reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Hwy., Silver Spring, Maryland 20910; and Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90130.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

Date: November 4, 1988.

[FR Doc. 88-26196 Filed 11-10-88; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of The Air Force

Privacy Act of 1974; Altered Systems of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Notice of eight altered systems of records, subject to the privacy Act of 1974, being published for any public comment.

SUMMARY: The Air Force is altering eight existing systems of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: This proposed action will be effective without further notice December 14, 1985, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Ms. Linda G. Adams, SAF/AADAQI, the Pentagon, Washington, D.C. 20330-1000, telephone: (202) 694-3488, AUTOVON: 224-3488.

SUPPLEMENTARY INFORMATION: The Air Force inventory of systems of records notice, subject to the Privacy Act of 1974, have been published in the Federal Register as follows:

FR DOC. 85-10237 (50 FR 22332) May 29, 1985 (Compilation)

FR DOC. 85-14122 (50 FR 24672) June 12, 1985

FR DOC. 85-15062 (50 FR 25737) June 21, 1985

FR DOC. 85-26775 (50 FR 46477) November 8, 1985

FR DOC. 85-29261 (50 FR 50337) December 10, 1985
 FR DOC. 86-2527 (51 FR 4531) February 5, 1986
 FR DOC. 86-4546 (51 FR 7371) March 3, 1986
 FR DOC. 86-10044 (51 FR 16735) May 6, 1986
 FR DOC. 86-11696 (51 FR 18927) May 23, 1986
 FR DOC. 86-25787 (51 FR 41382) November 14, 1986
 FR DOC. 86-25788 (51 FR 41402) November 14, 1986
 FR DOC. 86-27635 (51 FR 44332) December 9, 1986
 FR DOC. 87-8139 (52 FR 11845) April 13, 1987
 FR DOC. 88-14507 (53 FR 24354) June 28, 1988.

The specific changes to the systems of records being altered are set forth below, followed by the system notices, as amended, published in their entirety.

An altered system report, as required by 5 U.S.C. 552a(o) of the Privacy Act of 1974 was submitted on November 2, 1988, to the Administrator, Office of Information and Regulatory Affairs, OMB; the President of the Senate; and the Speaker of the House of Representatives, pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals" dated December 12, 1985 (50 FR 52730, December 24, 1985).

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 8, 1988.

F011 AF A

System name: Locator, Registration and Postal Directory Files (51 FR 413812), November 14, 1986.

Changes:

Categories of individuals covered by the system: Delete the entire entry and substitute with the following: "US Armed Forces active duty military personnel; US Armed Forces Reserve and National Guard personnel; US Government Civilian employees assigned to or on duty with Air Force organizations and HQ USSPACECOM. Dependents may be included at the option of the organization. Non-US Military personnel or civilian employees, at their option, may be included also; however, the Privacy Act does not apply to them and they have no appeal rights."

Authority for maintenance of the system: In line one, delete the number: "8012" and substitute with: "8013"

System manager(s) and address: In line one, delete the phrase: "Director of Administration, Headquarters, US Air Force" and substitute with the

following: "Director of Information Management and Administration, Office of the Administrative Assistant, Secretary of the Air Force, * * *"

Contesting record procedures: At end of entry, add " * * * " and are published in Air Force Regulation 12-35 (32 CFR Part 806b).

F011 AF A

SYSTEM NAME:

011 AF A—Locator, Registration and Postal Director Files

SYSTEM LOCATION:

Headquarters United States Air Force and at Air Force installations, to include bases, units, offices, and functions. Official mailing addresses are in the Department of Defense directory in the appendix of the Air Force's systems notices. Headquarters United States Space Command (HQ USSPACECOM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US Armed Forces active duty military personnel; US Armed Forces Reserve and National Guard personnel; US Government Civilian employees assigned to or on duty with Air Force organizations and HQ USSPACECOM. Dependents may be included at the option of the organization. Non-US Military personnel or civilian employees, at their option, may be included also; however, the Privacy Act does not apply to them and they have no appeal rights.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cards or listings may contain the individual's name, grade, military service identification number, Social Security number, duty location, office telephone number, residence address and residence telephone number, and similar type personnel data determined to be necessary by the local authority.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8013, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Used to locate or identify personnel assigned to, attached to, tenanted on, or on temporary duty at the specific installation, office, base, unit, function, and/or organization in response to specific inquiries from authorized users for the conduct of business. Portions of the system are used to directorize and forward individual personnel mail received by Air Force postal activities, and for assignment of individual mail

boxes. Files may be used locally to support official and unofficial programs which require minimal locator information or membership or user listings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from the system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper records in card or form media in visible file binders, cabinets, card files, or on computer and computer products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, or when superseded or no longer needed for reference, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning, or by overwriting magnetic media. Postal directory files are maintained for six months after reassignment, separation or departure from servicing activity.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Information Management and Administration, Office, of the Administrative Assistant, Secretary of the Air Force, Washington, DC. Local System Managers: Privacy officer of the installation, base, unit, organization, office or function to which the individual is assigned, attached, tenanted on or on temporary duty. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

NOTIFICATION PROCEDURES:

Requests from individuals should be addressed to the local System Manager or custodian of the records. Individual must furnish full name and the name of dependents to the Air Force installation, unit and organization, office, or function to which assigned, attached, tenanted on or on temporary duty at, including the calendar years of such service. The individual may visit the Locator Office

or Privacy Officer at the place of assignment. No identification is required to determine if the system contains records pertaining to a specific individual.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the local System Manager and are published in AFR 12-35 (32 CFR Part 806b).

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces or from individuals or personnel records.

EXEMPTIONS CLAIMED FOR THE SYSTEMS:

None.

FO35 AF MP A

System name: Effectiveness/Performance Reporting System (50 FR 222373), May 29, 1985.

Changes:

Categories of individuals covered by the system: In line one, after the word "Officer," add the following: "Applies to active duty/Air National Guard/Air Force Reserve personnel serving in grades Warrant Officer (W-1) through General (O-10)."

Categories of records in the system: In line three, after the phrase " * * * Colonel Promotion Recommendation Report; * * *" add the following: " * * * Air Force Brigadier General (Selectee) Effectiveness Report; Air Force General Officer Effectiveness Report; * * *"

Authority for maintenance of the system: Delete first two lines through: " * * * delegation by; * * *" and substitute with "10 USC 8013, Secretary of the Air Force: Powers and duties; delegation by; Air Force Regulation 36-9, General Officer Evaluation * * *" At the end of entry, add " * * * and Executive Order 9397."

Retention and disposal: In line 27, after the phrase " * * * has been served" add the following: "General Officer and Brigadier General (Selectee) Effectiveness Reports are destroyed within 30 days of retirement or separation."

System manager(s) and address: Delete the entire entry and substitute

with the following: "Deputy Chief of Staff Personnel, Headquarters United States Air Force, Washington, DC 20330, the Assistant for General Officer Matters, Deputy Chief of Staff, Personnel, Headquarters United States Air Force, Washington, DC 20330, and Chief of Air Force Reserve, Headquarters United States Air Force, Washington, DC 20330."

Contesting record procedures: At end of entry, add " * * * and are published in Air Force Regulation 12-35 (32 CFR Part 806b)."

Records source categories: At the end of entry, add: " * * * or Supplemental Evaluation Sheet."

FO35 AF MP A

SYSTEM NAME:

035 AF MP A—Effectiveness/Performance Reporting System.

SYSTEM LOCATION:

Headquarters, United States Air Force, Washington, DC 20330; Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150; headquarters of the major commands and separate operating agencies; consolidated base personnel offices; each State Adjutant General Office; Reserve and Air National Guard units, and the Human Resources Laboratory, Brooks Air Force Base, TX. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military Personnel Only. Officer: Applies to active duty/Air National Guard/Air Force Reserve Personnel serving in grades Warrant Officer (W-1) through General (O-10). Airmen: Applies to active duty personnel in grades Airman Basic (E-1) through Chief Master Sergeant (E-9), and to Air Force Reserve personnel in grades Staff Sergeant (E-5) through Chief Master Sergeant (E-9).

CATEGORIES OF RECORDS IN THE SYSTEM:

Officer Effectiveness Report; Education/Training Report; Lieutenant Colonel Promotion Recommendation Report; Colonel Promotion Recommendation Report; Air Force Brigadier General (Selectee) Effectiveness Report; Air Force General Officer Effectiveness Report; Airman Performance Report; Technical Sergeant (TSGT), Staff Sergeant (SSGT), and

Sergeant (SGT) Performance Report; Chief Master Sergeant (CMSGT), Senior Master Sergeant (SMSGT), and Master Sergeant (MSGT) Performance Report; Description of Data Contained Therein; Name; Social Security Number (SSN); Active and Permanent Grades; Speciality Data; Organization Location and Personnel Accounting Symbol (PAS); Period of Report; Number of Days of Supervision; Performance Evaluation Scales; Assessment of Potential; Comments Regarding Ratings.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 USC 8013, Secretary of the Air Force: Powers and duties; delegation by; Air Force Regulation 36-9, General Officer Evaluations; Air Force Regulation 39-10, Officer Evaluations; Air Force Regulation 39-62, Volume I, Noncommissioned Officer and Airman Performance Reports; and Executive Order 9397.

PURPOSE(S):

Uses Include: Documentation of effectiveness/duty performance history; promotion selection; school selection; assignment selection; reduction-in-force; control roster; reenlistment; separation; research and statistical analyses; other appropriate personnel actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Field by name and SSN.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Copies of performance reports are retained until separation or retirement. At separation or retirement, data subject is presented with field and command record copies of his or her reports. The Headquarters Air Force (HAF) copy is a permanent record that is forwarded to the National Personnel Records Center, St. Louis, MO. In the event the member has a Reserve commitment, the HAF

copy is sent to the Air Reserve Personnel Center (ARPC), York Street, Denver, CO. However, the following exceptions apply: Officers Field Record: Remove and give to individual when promoted to Colonel, when separated or retired. Destroy when voided by action of the Air Force (AF) Board for Correction of Military Records, forward all copies of report to Headquarters United States Air Force (HQ USAF) when directed. Command Record: The command custodian will destroy the reports when voided by action of Officer Personnel Records Review Board. When voided by action of the AF Board for Correction of Military Records, forward all copies of report to HQ USAF when directed. HAF Record: Remove reports voided by action of the Officer Personnel Records Review Board from the selection folder and file in the board recorder's office until destroyed by tearing into pieces, shredding, pulping, macerating or burning. Remove reports voided by action of the AF Board for Correction of Military Records from selection folder and submit to Board's Secretariat with duplicate and triplicate copies, for custody and disposition. Lt Colonel and Colonel Promotion Recommendation Reports are temporary documents maintained only at HQ Air Force level and are destroyed after their purpose has been served. General Officer and Brigadier General (Selectee) Effectiveness Reports are destroyed within 30 days of retirement or separation. Active duty airmen: Grades E-3 through E-6: On separation or retirement, Airman Performance Reports (APRs) are forwarded to the National Personnel Records Center, St. Louis, MO, unless data subject holds a reserve obligation, in which case they are forwarded to ARPC. Grades E-7 through E-9: On separation or retirement, original copies, those retained in Senior NCO selection folders and those in field record closing before January 1, 1967, are forwarded to the National Personnel Records Center or to ARPC if data subject holds a reserve obligation. Duplicate copies closing January 1, 1967, or later (field record) are returned to the member at separation or retirement. Non-EAD USAFR airmen: Air Force Reserve Forces Non-Commissioned Officers Performance Report; upon separation, retirement or assignment to a non-participating reserve status, they are forwarded to ARPC for file in the master personnel record and disposed of as a part of that record.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff Personnel, Headquarters United States Air Force, Washington, DC 20330, the Assistant for

General Officer Matters, Deputy Chief of Staff, Personnel, Headquarters United States Air Force, Washington, DC 20330, and Chief of Air Force Reserve, Headquarters United States Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the Appendix to the Air Force's systems notices.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in AFR 12-35 (32 CFR Part 806b).

RECORD SOURCE CATEGORIES:

The basis of the ratings is observed on-the-job or education/training performance progression of the individual. Further, evaluation reports may have as an additional source of information, Letters of Evaluation or Supplemental Evaluation Sheet.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt under 5 USC 552a(k)(7), as applicable. For additional information, contact the System Manager.

F035 AF MP Q

System name: Family Support Center Case Files (51 FR 4531), February 5, 1986.

Changes:

Categories of individuals covered by the system: Delete the entire entry and substitute with the following: "Active duty military personnel and their dependents, Air Force Reserve personnel, and Air National Guard personnel. Retired Air Force personnel and Air Force civilian employees and their dependents may also be included when records are created which are identical to those on military members."

Categories of records in the system: Delete the entire entry and substitute with the following: "File copies of information, which include but are not limited to demographics, client concerns, referrals client assessments, home and duty phone numbers, addresses, volunteer records, and staff member comments."

Authority for maintaining the system: In line one, delete the number: " * * * 8012 * * * " and substitute with: " * * * 8013 * * * "

Purpose(s): Delete the entire entry and substitute with the following: "To provide informaton to Family Support Center staff for actions related assessment counseling, program development, training, and referral actions."

Storage: Delete the entire entry and substitute with the following: "Automated, maintained on computer and manual, maintained in paper files."

Safeguards: In line three, delete the sentence "Records are stored in security file containers/cabinets." and substitute with "Records are stored on computer disk, in locked cabinets or rooms. Computers are only accessible by proper log-on/password capability."

Retention and disposal: Delete the entire entry and substitute with the following: "Retained in office files for one year or when no longer needed, whichever is later, then destroyed by erasing, degaussing, overwriting, shredding, macerating, burning, pulping or buried in a landfill."

System manager(s) and address: Delete the entire entry and substitute with the following: "Chief Air Force Family Matters Branch, Human Resources Development Division, Directorate of Personnel Plans, HQ USAF; Directorate of Personnel Programs at Major Command Headquarters; and Director, Family Support Center at Air Force installations."

Notification procedure: Delete the entire entry and substitute with the following: "Address written requests from individual to the Director or Deputy Director of the Family Support Center where the individual's records are maintained. Include the full name and signature of the requester and sufficient information to ensure positive identification of requester."

Contesting records procedures: Delete the entire entry and substitute with the following: "The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the system manager and are published in Air Force Regulation 12-35 (32 CFR Part 806b)."

F035 AF DP A**SYSTEM NAME:**

035 AF DP A—Family Support Center Case Files.

SYSTEM LOCATION:

At servicing Family Support Centers on Air Force installations. Official mailing addresses are in the Air Force directory in AFP 12-36, attachment 3.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel and their dependents, Air Force Reserve personnel, and Air National Guard personnel. Retired Air Force personnel and Air Force civilian employees and their dependents may also be included when records are created which are identical to those on military members.

CATEGORIES OF RECORDS IN THE SYSTEM:

File copies of information, which include but are not limited to demographics, client concerns, referrals, client assessments, home and duty phone numbers, addresses, volunteer records, and staff member comments.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 USC 8013, Secretary of the Air Force; powers and duties; delegation by; as implemented by Air Force Regulation 30-7, Family Action/Information Board and Family Support Center.

PURPOSE(S):

To provide information to Family Support Center staff for actions related to assessment counseling, program development, training, and referral actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:**STORAGE:**

Automated, maintained on computer and manual, maintained in paper files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Record are accessed by the custodian of the record system and person(s) responsible for servicing the record system in the performance of their duties. Records are stored on computer disk, in locked cabinets or rooms. Computers are only accessible by proper log-on/password capability.

RETENTION AND DISPOSAL:

Retained in office files for one year or when no longer needed, whichever is later, then destroyed by erasing, degaussing, overwriting, shredding, macerating, burning pulping or buried in a landfill.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Air Force Family Matters Branch, Human Resources Development Division, Directorate of Personnel Plans, HQ USAF; Directorate of Personnel Programs at Major Command Headquarters; and Director, Family Support Center at Air Force installations.

NOTIFICATION PROCEDURE:

Address written requests from individual to the Director or Deputy Director of the Family Support Center where the individual's records are maintained. Include the full name and signature of the requester and sufficient information to ensure positive identification of requester.

RECORD ACCESS PROCEDURES:

Contact Director, Family Support Center at servicing AF installation.

CONTESTING RECORDS PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the system manager and are published in Air Force Regulation 12-35 (32 CFR Part 806b).

RECORD SOURCE CATEGORIES:

Information obtained from individual, medical institutions, and personnel records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 AF MP R

System name: Application for Appointment and Extended Active Duty Files (51 FR 41397) November 14, 1986.
Changes:

* * * * *
Exemptions claimed for the system: Delete the entire entry and substitute with the following: "Parts of this system may be exempt under 5 U.S.C. 552a(k)(5). For additional information see exemption rule in AFR 12-35 (32 CFR Part 806b)."
* * * * *

F035 AF MP R**SYSTEM NAME:**

035 AF MP R—Application for Appointment and Extended Active Duty Files.

SYSTEM LOCATION:

Headquarters United States Air Force, Washington, DC 20330-5120; Air Force Military Personnel Center, Randolph AFB, TX 78150-6001; Air Reserve Personnel Center, Denver, CO 80280-5000; Headquarters Air Force Reserve Robins AFB, GA 31098-6001; United States Air Force Recruiting Service, Randolph AFB, TX 78150-5421; Air National Guard Support Center, Andrews AFB, Washington, DC 20331-6608.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) All applicants for appointment/reappointment as Reserves of the Air Force (ResAF) to United States Air Force Reserve (USAFR) or Air National Guard of the United States (ANGUS) affiliation; (2) all applicants for appointment/reappointment as ResAF to serve on extended active duty (EAD)—as medical service officers, chaplains, and judge advocates; (3) all USAFR and ANGUS members who apply for voluntary entry on EAD; (4) all commissioned officers of other uniformed services on EAD who apply for interservice transfer to serve on EAD with the USAF; (5) all commissioned officers and enlisted members of the USAF Reserve components, not on EAD, who apply for interservice transfer between Reserve components of the USAF.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application and supporting documents as applicable.

AUTHORITY FOR MAINTAINING OF THE SYSTEM:

10 U.S.C. Chapter 837, Appointment as Reserve Officers; Chapter 839, Temporary Appointments implemented by Air Force Regulation 36-15, Appointment in Commissioned Grades and Designation and Assignment in Professional Categories—Reserve of the Air Force and United States Air Force [Temporary]. 10 U.S.C. 716, Commissioned officers transfer among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service, implemented by AFR 35-39, Interservice and Intraservice Transfer of Uniformed Service Members. 10 U.S.C. 672(d), Reserve components generally; 689, Reserve officers; grade in which ordered to active duty; 50 U.S.C. App 454, Selective Service Act, Persons liable for training and service; App 456, Deferments and exemptions from training and service; implemented by AFR 45-26, Voluntary Entry on

Extended Active Duty of Commissioned Officers of the Air Reserve Forces.

PURPOSE(S):

Used to select, appoint or designate persons for the USAFR or ANGUS, for interservice/intraservice transfer, Ready Reserve assignment, or EAD.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

If selected for appointment/reappointment, extended active duty, USAFR or ANGUS affiliation, or interservice/intraservice transfer, records become the Master Personnel Record Group (MPerRGp) and are forwarded to the appropriate MPerRGp custodian. An abbreviated reference file of selected documents is maintained by the applicable utilization and assignment branch. If not selected, documents are retained for one year by the selection or appointment authority.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Personnel, Randolph Air Force Base, TX 78150-8001.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Member's application, letters of recommendation, results of National Agency Check and Military Personnel Records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(5). For additional information see exemption rule in AFR 12-35 (32 CFR Part 806b).

F050 AU F

System name: Air University Academic Records (50 FR 22452), May 29, 1985.

Changes:

* * * * *

Authority for maintenance of the system: In line one, delete the numbers " * * * 8012 * * *" and substitute the following: " * * * 8013 * * *." At the end of the entry, add " * * * and Executive Order 9397."

* * * * *

Storage: In line two, delete the phrase: "Maintained on roll microfilm and on microfiche * * *" and substitute with the following: " * * * and in microform and on computer * * *"

* * * * *

Contesting record procedures: At end of entry, add " * * * and are published in Air Force Regulation 12-35 (32 CFR Part 806b)."

* * * * *

F050 AU F

SYSTEM NAME:

050 AU F—Air University Academic Records.

SYSTEM LOCATION:

Air University, Maxwell Air Force Base, AL 36112. Subsystems are located and maintained at the Air Force Institute of Technology/RR, Wright-Patterson Air Force Base, OH 45433; Extension Course Institute/EDOR, Gunter Air Force Station, AL 36118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Graduates, students currently or previously enrolled in AFIT, AU PME schools or ECI.

CATEGORIES OF RECORDS IN THE SYSTEM:

Education records which include transcripts; test scores; completion/noncompletion status; training reports; rating of distinguished, outstanding or excellent graduate as appropriate; and other documents associated with academic records.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; Powers and duties; delegation by;

Air Force Regulation 50-12, Extension Course Program; Air Force Regulation 53-8, USAF Officer Professional Military Education System; and Executive Order 9397.

PURPOSE(S):

Individuals seeking academic or certification credit for courses completed may request applicable Registrar to send a record of courses completed to school or activity desired.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Maintained in file folders at Air Force Institute of Technology, and in microform and on computer at Extension Course Institute.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in vaults and locked cabinets or rooms and are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained for 30 years or until no longer required at ECI; master transcripts of resident schools are kept 50 years at AFIT.

SYSTEM MANAGER(S) AND ADDRESS:

Registrar, Air Force Institute of Technology, Wright-Patterson Air Force Base, OH 45433; Air University Registrar, Extension Course Institute, Gunter Air Force Station, AL 36118.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Include full name, SSN and class designation. Individuals may visit Office of the Registrar. Identification is required.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the

appendix to the Air Force's systems notices.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35 (32 CFR Part 806b).

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, source documents such as reports, testing agencies, student, and on-the-job training officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F125 AF SP E

System name: Incident Investigation Files (50 FR 22497), May 29, 1985.

Changes:

System name: Delete current name and substitute the following: "Security Police Automated System (SPAS)."

System location: Delete the entire entry and substitute the following: "Active Duty Security Police Activities, Air Force Reserve Security Police Units and Air National Guard Security Police Activities."

Categories of individuals covered by the system: Delete the entry and substitute with the following: "All military and civilian security police personnel. All military and civilian personnel who register privately owned vehicles or weapons on Air Force installations. All military and civilian personnel who are issued restricted or controlled area passes by a security police activity. All military and civilian personnel who possess an individual incident reference and/or drivers record. All military and civilian personnel possess an Air Force security clearance. All military and civilian personnel who: are issued traffic citations, are involved in criminal acts or incidents which generate an incident report or are involved in motor vehicle accidents on Air Force installations. All military and civilian personnel who are prohibited from entering an Air Force installation."

Categories of records in the system: Delete the entry and substitute with the following: "Files containing: (1) Security police and security police augmentor identification data such as name, grade, social security number, address and phone number; (2) security police and security police augmentor qualification data such as security clearance,

Personnel Reliability Program status, weapon qualifications, quality control certification and training data; (3) security clearance data on all military and civilian personnel who possess an Air Force security clearance; (4) documentation used to request identification or entry credentials, information reports on the loss, theft or destruction of said credentials, certain types of entry authority listings and various accountability records; (5) individual records which reflect historical involvement in incidents which require a police report on all military and civilian personnel; (6) records that reflect traffic penalty point accumulation as a result of driving infractions on all military and civilian personnel; (7) documentation used to register privately owned vehicles and weapons for all military and civilian personnel; (8) documentation used to identify all military and civilian personnel who have been prohibited from entering Air Force installations; and (9) includes a chronology of an investigation being conducted, data on sources of information, information on investigation techniques, and records concerning seized property.

Authority for maintaining the system: In line one, delete the number " * * * 8012 * * * " and substitute the following: " * * * 8013 * * * ." At the end of entry add " * * * Data Project Directive (DPD) # DSC-P76-99 dated 5 Mar 84; and Executive Order 9397.

Purpose(s): Delete the entire entry and substitute with the following: "Personnel records are used by security police managers to track and monitor availability and qualification of personnel assigned or attached to security police activities. Vehicle and weapon registration records are used by security police personnel to monitor vehicles and weapons registered on Air Force installations. Incident and traffic records are used by commanders to identify repeat offenders. Security clearance records are used by security police and commanders to determine eligibility for access to classified information. Identification and entry authority records are used by security police personnel for issuing identification cards and restricted by controlled area badges and for accountability of various controlled forms used in the process. Barment records are used by security police installation entry controllers to identify personnel who are prohibited from entering the installation. Investigation records are used by security police investigators to assist in the

investigation of a criminal act or incident.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Delete the entire entry and substitute with the following: "Records in this system are maintained manually (paper files), automated (in computer, on hard disks, floppy diskettes or tape backups), and in combination when deemed necessary.

Retrievability: Delete the entire entry and substitute with the following: "Records in this system are retrieved from manual storage by name and from automated storage by name or social security number.

Safeguards: In lines 3 and 4, delete the phrase: "Records are stored * * * or rooms * * * " and add the following phrase: "Records are maintained/stored on computer hard disks (backup copies are maintained on floppy diskettes or tape media) and/or in secure file containers and in locked cabinets or rooms."

Retention and disposal: Delete the entire entry and substitute with the following: "Files for security police and security police augmentor personnel are destroyed when superseded or upon reassignment or separation from the security police activity. Accountability records are destroyed five years after issue of the last controlled form or the last entry on the accountability log. Incident reports are destroyed three years after last entry or forwarded to gaining installations upon reassignment of the individual. Traffic records are destroyed one year after last entry or forwarded to gaining installations upon reassignment of the individual. Motor vehicle accident records are destroyed three months after posting or forfeiture of collateral. Barred personnel records are destroyed three years after removal from the list. Investigation reports are retained in office for one year after annual cutoff, transferred to a staging area for two years and then destroyed. Records stored in a computer, on a hard disk, a floppy diskette or tape media, are destroyed by deleting them from the file. Paper records are destroyed by tearing them into pieces, shredding, pulping or burning.

System manager(s) and address: Delete the entire entry and substitute with the following: "Air Force Office of Security Police, Kirtland Air Force Base, NM 87117-6001 and Chiefs of Security police at each security police activity."

Notification Procedures: Delete the entire entry and substitute with the following: "The Chiefs of Security Police

at each appropriate security police activity should be contacted for information relative to records maintained in this system. Information relating to police records will be coordinated through local Staff Judge Advocate offices before release. When requesting information in writing, the individual must include full name, social security number, military status, full home address with complete zip codes, and the letter must be notarized. If an individual requests information in person, that individual must present a military identification card, if applicable, a valid drivers license, or other requested proof of identity."

Record access procedure: Delete the entire entry and substitute with the following: "Individuals may obtain assistance in gaining access to their records from the system manager at the appropriate security police activity. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. Contact the Chief of Security Police at the appropriate installation."

Record Source Categories: Delete the entire entry and substitute with the following: "Information on security police and security police augments personnel is extracted from computer printouts, unit personnel records, the unit commander, supervisors, and the individual. Other information is extracted from incident reports, traffic tickets, registration forms and applications prepared by the individual."

Exemptions claimed for the system: At the end of the entry, add: "The general exemption rule is published in Air Force Regulation 12-35 (32 CFR Part 806b)."

F125 AF SP E

SYSTEM NAME:

125 AF SP E—Security Police Automated System (SPAS).

SYSTEM LOCATION:

Active Duty Security Police Activities, Air Force Reserve Security Police Units and Air National Guard Security Police Activities. Official mailing addresses are in the Air Force address directory in AFP 12-36, attachment 3.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military and civilian security police personnel. All military and civilian personnel who register privately owned vehicles or weapons on Air Force installations. All military and

civilian personnel who are issued restricted or controlled area passes by a security police activity. All military and civilian personnel who possess an individual incident reference and/or drivers record. All military and civilian personnel who possess an Air Force security clearance. All military and civilian personnel who: Are issued traffic citations, are involved in criminal acts or incidents which generate an incident report or are involved in motor vehicle accidents on Air Force installations. All military and civilian personnel who are prohibited from entering an Air Force installation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files containing: (1) Security police and security police augments identification data such as name, grade, social security number, address and phone number; (2) security police and security police augments qualification data such as security clearance, personnel Reliability Program status, weapon qualifications, quality control certification and training data; (3) security clearance data on all military and civilian personnel who possess an Air Force security clearance; (4) documentation used to request identification or entry credentials, information reports on the loss, theft or destruction of said credentials, certain types of entry authority listings and various accountability records; (5) individual records which reflect historical involvement in incidents which require a police report on all military and civilian personnel; (6) records that reflect traffic penalty point accumulation as a result of driving infractions on all military and civilian personnel; (7) documentation used to register privately owned vehicles and weapons for all military and civilian personnel; (8) documentation used to identify all military and civilian personnel who have been prohibited from entering Air Force installations; and (9) includes a chronology of an investigation being conducted, data on sources of information, information on investigation techniques, and records concerning seized property.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by: Data Project Directive (DPD) #DSC-P76-99 dated March 5, 1984; and Executive Order 9397.

PURPOSE(S):

Personnel records are used by security police managers to track and monitor availability and qualification of personnel assigned or attached to

security police activities. Vehicle and weapon registration records are used by security police personnel to monitor vehicles and weapons registered on Air Force installations. Incident and traffic records are used by commanders to identify repeat offenders. Security clearance records are used by security police and commanders to determine eligibility for access to classified information. Identification and entry authority records are used by security police personnel for issuing identification cards and restricted by controlled area badges and for accountability of various controlled forms used in the process. Barment records are used by security police installation entry controllers to identify personnel who are prohibited from entering the installation. Investigation records are used by security police investigators to assist in the investigation of a criminal act or incident.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Record from this system may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained manually (paper files), automated (in computer, on hard disks, floppy diskettes or tape backups), and in combination when deemed necessary.

RETRIEVABILITY:

Records in this system are retrieved from manual storage by name and from automated storage by name or social security number.

SAFEGUARDS:

Records are accessed by persons responsible for servicing the record system in performance of their official duties. Personnel are thoroughly screened for need-to-know. Records are maintained/stored on computer hard disks (backup copies are maintained on floppy diskettes or tape media) and/or in secure file containers and in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Files for security police and security police augments personnel are destroyed when superseded or upon reassignment or separation from the security police activity. Accountability records are destroyed five years after issue of the last controlled form or the

last entry on the accountability log. Incident reports are destroyed three years after last entry or forwarded to gaining installations upon reassignment of the individual. Traffic records are destroyed one year after last entry or forwarded to gaining installations upon reassignment of the individual. Motor vehicle accident records are destroyed three months after posting or forfeiture of collateral. Barred personnel records are destroyed three years after removal from the list. Investigation reports are retained in office for one year after annual cutoff, transferred to a staging area for two years and then destroyed. Records stored in a computer, on a hard disk, a floppy diskette or tape media, are destroyed by deleting them from the file. Paper records are destroyed by tearing them into pieces, shredding, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117-6001 and Chiefs of Security Police at each security police activity.

NOTIFICATION PROCEDURES:

The Chiefs of Security Police at each appropriate security police activity should be contacted for information relative to records maintained in this system. Information relating to police records will be coordinated through local Staff Judge Advocate offices before release. When requesting information in writing, the individual must include full name, social security number, military status, full home address with complete zip codes, and the letter must be notarized. If an individual requests information in person, that individual must present a military identification card, if applicable, a valid drivers license, or other requested proof of identity.

RECORD ACCESS PROCEDURE:

Individuals may obtain assistance in gaining access to their records from the system manager at the appropriate security police activity. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. Contact the Chief of Security Police at the appropriate installation.

RECORD SOURCE CATEGORIES:

Information on security police and security police augmentor personnel is extracted from computer printouts, unit personnel records, the unit commander, supervisors, and the individual. Other information is extracted from incident reports, traffic tickets, registration forms

and applications prepared by the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt under 5 USC 552a(j)(2). For additional information, contact the System Manager. The exemption rule is published in Air Force Regulation 12-35 (32 CFR Part 806b).

F177 AF AFC D

System name: Joint Uniform Military Pay System (JUMPS) (50 FR 22527), May 29 1985.

Changes:

System location: In line 2, delete the phrase: " * * * Manpower and Personnel Center, Randolph Air Force Base, TX 78150" and add the following: " * * * Military Personnel Center, Randolph Air Force Base, TX 78150-6001."

Categories of records in the system: In line 5 after " * * * pay authorization file, * * * " add the following " * * * central pay automated teller machine (ATM) files."

Authority for maintenance of the system: At the end of the entry, add " * * * and Executive Order 9397."

Purpose(s): In line 2 after " * * * and savings accounts, * * * " add the following: " * * * Air Force ATM accounts."

Retrievability: At the end of entry, add " * * * or ATM card number."

Contesting records procedures: At the end of entry, add " * * * (32 CFR Part 806b)"

F177 AF AFC D

SYSTEM NAME:

177 AF AFC D—Joint Uniform Military Pay System (JUMPS).

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Denver, CO 80279. Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. Consolidated base personnel offices at Air Force installations. Accounting and finance offices at Air Force bases. At Data Systems Design Office, Gunter Air Force Station, AL 36114 (for research and test only), Denver Federal Archives and Records Center, Denver, CO 80225 (storage), Records Center Annex GSA, PO Box 141, Neosho, MO 64850 (backup storage). Information pertaining to geographically dispersed elements of the record system (CBPOs and AFOs) may

be obtained from Record Managers at the applicable Air Force component listed in the Department of Defense Director in the appendix to the Air Force system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel and dependents, retired and separated Air Force military personnel, officers of the Air Reserve and Air National Guard on extended active duty, officers and airmen of the Air Reserve and Air National Guard on active duty where strength accountability remains with the reserve component, and individuals to whom active duty military personnel authorize a direct payment of a portion of their pay.

CATEGORIES OF RECORDS IN THE SYSTEM:

Military pay records and files including but not limited to master military pay accounts, immediate access storage, six-months history, leave and earnings statements, federal insurance contribution act tax and federal income tax withholding pay authorization control files, central pay authorization file, central pay automated teller machine (ATM) files, deferred transaction file, reject suspense file and daily transaction record. Military pay supporting documents and vouchers including but not limited to basic pay; special compensation positions such as medical, dental, veterinary and optometry; special pay such as foreign duty, proficiency, hostile fire and diving duty; status adjustments relating to entrance on active duty, absent-without-leave, confinement, desertion, sick or injured, leave, mentally incompetent, missing, interned, permanent change of station, promotions and emotions; separation, reenlistment bonus; incentive pay such as flying duty, stress duty, demolition duty, parachute jumping duty and submarine duty; allowances, such as basic allowance for subsistence, basic allowance for quarters, family separation allowances, overseas station allowances, clothing monetary allowance; separation payments, death gratuities, time-in-service; allotments of pay; checks-to-banks; federal and state withholding taxes; courtmartial sentences and non-judicial punishment; indebtedness resulting from but not limited to overpayment of pay and allowances and allotments, other debts to United States, certain nongovernment debts, and correspondence pertaining to all of the above. Inquiries, files, personal financial records and sundry lists, reports and

rosters including but not limited to Internal Revenue reports, state tax reports, Veterans Administration reports, Social Security Administration reports, and Treasury reports.

AUTHORITY FOR MAINTAINING THE SYSTEM:

Title 37 USC, Pay and Allowances of the Uniformed Services; 10 USC 265, Policies and regulations: Participation of Reserve officers in preparation and administration; 8033, Reserve components of the Air Force; policies and functions for government of: Functions of National Guard Bureau with respect to Air National Guard; 8496, Air National Guard of the United States: Commissioned officers; duty in; 9837(d), settlement of accounts: Deductions from pay; 32 USC 708, Property and fiscal officers; and Executive Order 9397.

PURPOSE(S):

Used to pay members of the Air Force, to their checking and saving accounts, Air Force ATM accounts, and their allotments either directly to financial institutions or through Direct Deposit/Electronic Fund Transfer Program, provide members periodic comprehensive statements of their accounts, and to respond to inquiries concerning their accounts at any time.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. Records from this system of records may be disclosed to the Internal Revenue Service for tax information on members, Social Security Administration for information regarding Federal Insurance Contribution Act tax deducted from members, Veterans' Administration for information regarding premiums on servicemen group life insurance, state and local governments for tax and welfare information, insurance companies for allotments made to them by military members, financial institutions for deposits (checks-to-banks) and/or payments, the American Red Cross and the Air Force Aid Society. American Red Cross uses this information to determine needs of a member of his dependents in emergency situations and for verification of loan applications.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper, computer, and computer output products, and in microform.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN), military service number, or ATM card number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers, cabinets, locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

RETENTION AND DISPOSAL:

Local retention varies from 3 to 6 years. After that time, records are either destroyed by tearing, shredding, pulping, macerating or burning or transferred by the Air Force Accounting and Finance Center to the Denver Federal Archives and Records Center for varying retention periods up to 56 years. Destroyed by shredding. Backup records for emergency reconstruction in the event of primary record destruction are retained by the Federal Records Center Annex CSA at Neosho MO. Destruction is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance, United States Air Force.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver, CO 80279, telephone (303) 370-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Records Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force's systems notices. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty status or place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD Denver, CO 80279, telephone (303) 370-7553. The

record system may be obtained from Record Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty status or place of employment or other information verifiable from the record itself.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35 (32 CFR Part 806b).

RECORD SOURCE CATEGORIES:

Information obtained from financial institutions, automated system interfaces, a state or local government, source documents such as reports, military pay information originating from telephone inquiries, telegraph messages and correspondence information from federal agencies and other DOD components and information from Air Force installations, Major Commands and USAF Headquarters.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F190 SAFFA B

System name: Official Biographies (51 FR 41399), November 14, 1986.

Changes:

* * * * *
Categories of individuals covered by the system: In last line, delete sentence "Key personnel in USSPACECOM." and add "Key personnel in Office of the Secretary of Defense (OASD), military departments, and HQ USSPACECOM."

Authority for maintenance of the system: In line one, delete the number " * * * 8012 * * *" and substitute the following: " * * * 8013 * * * "

* * * * *
Contesting records procedures: At the end of the entry, add " * * *" and are published in Air Force Regulation 12-35 (32 CFR Part 806b)."

F190 SAFFA B

SYSTEM NAME:

190 SAFFA B—Official Biographies.

SYSTEM LOCATION:

Biographies of active duty general officers and high-level civilian personnel of the Department of the Air Force Service Information and News Center,

Kelly Air Force Base, TX 78241 (AFSINC/IIB). Record system segments or duplicates pertaining to active duty general officers may be found at the Office of Public Affairs, Office of the Secretary of the Air Force, Washington, DC 20330; Headquarters of major commands and at all levels down to and including Air Force installations. Also at Air Force libraries, offices of air attaches to United States Embassies, Air Force sections of Military Assistance Advisory Groups and missions; unified activities and unified commands. Additional locations include the Air Force Chief Historian (AF/CHO), Washington, DC 20330; Assistant for General Officer Matters (AF/MPG), Washington, DC 20330; and the Aerospace Historical Foundation, University of KS. Biographies of retired Air Force general officers are located at the Media Relations Division, Secretary of the Air Force Office of Public Affairs (SAF/PAM), Room 5C879, The Pentagon, Washington, DC 20330, and at the Retired Activities Section, Assistant DCS/Personnel, Air Force Manpower and Personnel Center (AFMPC/AFPMSDMI), Randolph Air Force Base, TX 78150. Biographies of key civilian employees of the Office of the Secretary of the Air Force and of Headquarters, United States Air Force, relocated at the Director of Civilian Personnel, Washington, DC 20330. Biographies of key civilian employees at subordinate organizational levels may be found at the office of the Director of Civilian Personnel. Biographies of Air Reserve general officers are at Headquarters, USAF/REL, Washington, DC 20330. Record segments or duplicates may be found at the Office of Public Affairs, Headquarters, of the United States Air Force, major commands and major subordinate commands. Air Force Manpower and Personnel Center (AFMPC/DPMYR), Randolph Air Force Base, TX 78150; Headquarters, Air Force Reserve (Commander and Public Information Office), Robins Air Force Base, GA 31098; Air Reserve Personnel Center (Commander and Public Affairs Office), Denver, CO 80280; Headquarters, Military Airlift Command (CSB), Scott Air Force Base, IL 62225; Secretary of the Air Force, Manpower and Reserve Affairs (MRR), Washington, DC 20330; the Reserve Forces Policy Board, Washington, DC 20330; and the offices of all Air Reserve general officers. Biographies of Air National Guard general officers are located at the National Guard Bureau, Washington, DC 20310. Records system segments of duplicates may be found at Department of the Army major divisions

and installations. Headquarters of the major commands and separate operating agencies. Army readiness regions; the offices of Army Guard and Air National Guard Liaison Officers; the Aerospace Audio-Visual Service, Norton Air Force Base, CA 92404; the Office of the Secretary of Defense; the Office of the Secretary of the Navy; the Library of Congress; the Air Force Association; the Army Association; the Reserve Officers Association; Air Force libraries; the Air War College, the offices of all National Guard and Air National Guard general officers, and the offices of state Adjutants General. Specific addresses may be obtained from the National Guard Bureau. Biographies prepared under the official biographies program for key military and civilian personnel of other Air Force organizations may be found at the Office of Public Affairs. Headquarters of major commands and at all levels down to and including Air Force installations. Headquarters United States Space Command (HQ USSPACECOM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Secretary of the Air Force, Under Secretary and assistant secretaries of the Air Force, Air Force general officers on active duty or retired, Air Reserve and Air National Guard general officers, Air Force personnel assigned as pilots to the Manned Space Program, and key military and civilian personnel at all Air Force organizations. Key personnel in Office of the Secretary of Defense (OASD), military departments, and HQ USSPACECOM.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes, but not limited to, summary of military service (including dates and locations of assignments and dates of promotions), military honors and awards, educational background, date and place of birth, marital status, name of spouse and family, and any additional personal information provided by the general.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 USC 8013, Secretary of the Air Force: Powers and duties delegation by.

PURPOSE(S):

Biographies are prepared to support the Air Force policy to keep its members and the public informed about the Air Force and its leaders. Biographies may be used as resource documents in preparing news releases or other public information material and are included in the official personnel records of all general officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. In their final form the biographies are considered published, public domain material may be released to any requester on an as needed or as requested basis.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

No specific safeguards required.

RETENTION AND DISPOSAL:

Retained in office files until superseded obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESSES:

Commander, Air Force Service Information and News Center (AFSINC/CC), Kelly Air Force Base, TX 78241.

NOTIFICATION PROCEDURE:

Requests from individuals should be directed to Commander, Air Force Service Information and News Center (AFSINC/CC), Kelly Air Force Base, TX 78241, telephone (512) 925-6161 for all biographies of active duty general officers and key civilians assigned to the Office of the Secretary of the Air Force or to Headquarters Air Force. Biographies for Air Reserve general officers at Headquarters USAF/REL; Air National Guard general officers at the National Guard Bureau, and retired officers from the Media Relations Division (SAF/PAM), mailing addresses in the Department of Defense directory in the appendix to the Air Force's systems notices. All other biographies: Office of Public Affairs at the appropriate level.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance from the Commander, Air Force Service Information and News Center, the National Guard Bureau, Headquarters, USAF/REL, Media Relations Division (SAF/PAM) or the Office of Public Affairs at the appropriate level. Mailing addresses are in the Department of

Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORDS PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35 (32 CFR Part 806b).

RECORD SOURCE CATEGORIES:

Information obtained from the public media and information obtained from source documents such as reports. Subject to final review by the individual concerned before publication.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 88-26193 Filed 11-10-88; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

[CFDA NO.: 84.129U]

Notice Inviting Applications for New Awards Under the Rehabilitation Continuing Education Program of the Rehabilitation Services Administration for Fiscal Year 1989

Purpose: Provides funding through cooperative agreements to State agencies and other public or nonprofit agencies and organizations, including institutions of higher education, for training centers that serve either a Department of Education region or another multi-State geographical area and provide for a broad integrated sequence of training activities that focus on meeting recurrent and common training needs of employed rehabilitation personnel. The amount of available funds in this notice is an estimate. Applications are invited from Department of Education Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) and Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee).

Deadline for Transmittal of

Applications: January 17, 1989

Applications Available: November 17, 1988

Estimated Available Funds: \$850,000

Estimated Range of Awards: \$200,000 to \$350,000

Estimated Number of Awards: 2 to 3

Estimated Average Size of Awards: \$283,000

Project Period: Not to exceed 60 months

Applicable Regulations: (a) The Rehabilitation Services Administration

Regulations governing the Rehabilitation Continuing Education Program, 34 CFR Parts 385 and 389, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 80.

For Applications or Information Contact: Mary Ford, Office of Developmental Programs, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3332 (Switzer Building), Washington, DC 20202-2650. Telephone: (202) 732-1351.

Program Authority: 19 U.S.C. 774.

Dated: November 7, 1988.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 88-26261 Filed 11-10-88; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Award of a Cooperative Agreement, Noncompetitive Financial Assistance; Thermoluminescence Laboratory of University of Utah

AGENCY: Nevada Operations Office, DOE.

ACTION: Notice of noncompetitive financial assistance.

SUMMARY: DOE announces that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14(e)(1)(ii), it is awarding a noncompetitive financial assistance cooperative agreement for a research program to be conducted at the Thermoluminescence (TL) Laboratory of the University of Utah on the development of optically stimulated luminescence, imaging TL spectrometry, and electron spin resonance techniques for accident and environmental dosimetry.

Project Scope

This award will primarily support the operation of the TL Laboratory and the development of new techniques for analysis of environmental materials which will expand the capability for rapid, accurate measurement of radiation dose delivered in accident situations. The Optically Stimulated Luminescence technique is similar to TL spectrometry but uses photo rather than thermal stimulation. Recent results from a research laboratory indicated that, in fired quartz, doses as low as one rad can be measured. Development of this technique will enable the University to analyze ceramics and bricks containing feldspar crystals that cannot be analyzed using the TL technique.

Imaging TL Spectrometry will address the problems of grain heterogeneity by providing single-grain imaging of TL samples. This technique will provide a method by which grains of similar properties may be sorted to improve the signal output and speed up sample preparation. Development of this capability will facilitate the laboratory's capability for emergency response to a radiological accident.

Eligibility for the award of this cooperative agreement is being limited to the University of Utah because the TL Laboratory at the University is the only laboratory in the United States that is capable of doing this kind of work.

The term of this cooperative agreement is for three years and will commence on January 1, 1988, and end on December 31, 1991. The total estimated cost of this award is \$1.12 million.

FOR FURTHER INFORMATION CONTACT:

U.S. Department of Energy, Nevada Operations Office, ATTN: David L. Wheeler, P.O. Box 98518, Las Vegas, NV 89193-8515.

Issued in Las Vegas, Nevada on October 26, 1988.

Nick C. Aquilina,

Manager.

[FR Doc. 88-26234 Filed 11-10-88; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No., 88-51-NG]

Renaissance Energy (U.S.) Inc.; Order Granting Blanket Authorization To Import Natural Gas From and Export Natural Gas to Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to import natural gas from and export natural gas to Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy gives notice that it has issued an order granting Renaissance Energy (U.S.) Inc. (Renaissance) blanket authorization to import natural gas from and export natural gas to Canada. The order issued in ERA Docket No. 88-51-NG authorizes Renaissance to import or export in the aggregate not more than 200 Bcf of U.S. and Canadian natural gas over a two-year term beginning on the date of first delivery.

A copy of this order is available in the Natural Gas Division Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW.,

Washington, DC 20585, (202) 586-9478. 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., on November 8, 1988.

Constance L. Buckley,

*Acting Director, Office of Fuels Programs,
Economic Regulatory Administration.*

[FR Doc. 88-26235 Filed 11-10-88; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order To Richome Oil and Gas Co., Jerome B. Herrmann and Richard P. Herrmann

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed remedial order to Richome Oil and Gas Company, Jerome B. Herrmann and Richard P. Herrmann.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Richome Oil and Gas Company (now known as Herrmann Energy), Jerome B. Herrmann and Richard P. Herrmann of Amarillo, Texas on September 21, 1988. This Proposed Remedial Order alleges overcharges in the amount of \$137,030.20, plus interest, resulting from violations of 6 CFR 150.354(c), and 10 CFR 212.73(a) and 212.74 during the time period November 1973 through December 1974. The effect of the alleged violations is nationwide.

A copy of the Proposed Remedial Order may be obtained from: Office of Freedom of Information Reading Room, United States Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585.

Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, United States Department of Energy, Forrestal Building, Room 1E-234, 1000 Independence Avenue, SW., Washington, DC, in accordance with 10 CFR 205.193. The Notice shall be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order and shall state the person's intention to file a Statement of Objections. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the proposed order. If a Notice of Objection is not filed in accordance with 10 CFR 205.193, the Proposed Remedial Order

may be issued as a final Remedial Order.

Pursuant to 10 CFR 205.193(c), a person who files a Notice of Objection shall on the same day serve a copy of the Notice upon:

Ben Lemos, Director, Enforcement Litigation Division, U.S. Department of Energy, 1403 Slocum Street, 2nd Floor, Dallas, Texas 75207,

and upon:

Diana D. Clark, Director, Administrative Litigation Division, U.S. Department of Energy, RG-32, 1000 Independence Avenue, SW., Washington, DC 20585.

Issued in Washington, DC, on the 4th day of November 1988.

Milton C. Lorenz,

*Chief Counsel for Enforcement Litigation,
Economic Regulatory Administration.*

[FR Doc. 88-26236 Filed 11-10-88; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to Salomon Inc., et al.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed remedial order to Salomon Inc., Philipp Brothers, Inc., Derby & Co., Inc., Phibro Corporation, Derby Distributors, Inc., Philipp Brothers Latin American Corporation, Philipp Brothers Pam American Corporation.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order (PRO) which was issued to Salomon Inc., c/o Corporation Trust Company, Corporation Trust Plaza, 1209 Orange Street, Wilmington, Delaware 19801, and the following subsidiary corporations: Philipp Brothers, Inc., 1221 Avenue of the Americas, New York, New York 10020; Derby & Co., Inc. (same address); Phibro Corporation, c/o Corporation Trust Company, Corporate Trust Center, 1209 Orange Street, Wilmington, Delaware 19801; Derby Distributors, Inc., McGraw-Hill Bldg., Avenue of the Americas and 48th Street, New York, New York, 10020; Philipp Brothers Latin American Corporation, 1221 Avenue of the Americas, New York, New York 10020; and Philipp Brothers Pan American Corporation (same address). The PRO charges that Derby & Co., Inc. and Phibro Corp. violated the anti-layering and other pricing provisions of the regulations applicable to crude oil resales (10 CFR Part 212, Subpart L) during the 1978-1980 period and received unlawful revenues of \$46.06

million and \$59.29 million, respectively. The PRO further alleges that Derby Distributors, Inc., Philipp Brothers Pan American Corp., and Philipp Brothers Latin American Corporation violated the pricing provisions of these regulations during the same period and received unlawful revenues of \$1,362,459.14, \$164,780.40, and \$1,096,434.92, respectively. The effect of these overcharges is nationwide.

The total overcharges alleged in the PRO amount to \$107.97 million. The PRO seeks payment of this amount, plus interest, to DOE. With interest, the total restitutionary amount sought, through September 30, 1988, is \$311.61 million. The PRO contemplates that all monies received will be deposited into an interest-bearing escrow account for ultimate distribution pursuant to DOE's Special Refund Procedures (10 CFR Part 205, Subpart V) and DOE's Modified Statement of Restitutionary Policy (51 FR 27899, August 4, 1986).

A copy of the PRO may be obtained from: Office of Freedom of Information Reading Room, United States Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585.

Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, United States Department of Energy, Forrestal Building, Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with 10 CFR 205.193. The Notice shall be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order, and shall state the person's intention to file a Statement of Objections.

Pursuant to 10 CFR 205.193(c), a person who files a Notice of Objection shall on the same day serve a copy of the Notice upon: **Ben Lemos, Director, Economic Regulatory Administration, U.S. Department of Energy, 1403 Slocum Street, 2nd Floor, Dallas, Texas 75207** and upon: **Diana D. Clark, Director, Administrative Litigation Division, Economic Regulatory Administration, U.S. Department of Energy, 1000 Independence Avenue, SW., RG-32, Washington, DC 20585.**

Issued in Washington, DC, on the 3rd day of November 1988.

Milton C. Lorenz,

*Chief Counsel for Enforcement Litigation,
Economic Regulatory Administration.*

[FR Doc. 88-26237 Filed 11-10-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER89-38-000, et al.]

New England Power Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. New England Power Company

[Docket No. ER89-38-000]

November 4, 1988.

Take notice that on October 31, 1988, New England Power Company (NEP) tendered for filing amendments to its FERC Electric Tariff, Original Volume No. 1, Schedule II-A, which is the Oil Conservation Adjustment Clause (OCA) within that tariff. NEP requests that the proposed changes be made effective December 31, 1988, but be suspended for one day, to permit billing under the amendments on January 1, 1989.

NEP states that the proposed amendments add a 1.1 mill per KWH floor to the OCA charge. NEP explains that the floor is needed to allow full recovery of its coal conversion investment in its Salem Harbor Units 1, 2, and 3 (Units). According to NEP, the currently effective OCA charge, which is based on the oil/coal price differential of the Units, does not allow for amortization of that investment due to the precipitous drop in oil prices. NEP states that the proposed change will allow full amortization by 1996.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. The Dexter Corporation and Meridian Trust Company

[Docket No. QF86-765-001]

November 4, 1988.

On October 20, 1988, The Dexter Corporation and Meridian Trust Co. (Applicants), of One Elm Street, Windsor Locks, Connecticut 06096 and 35 North 6th St., Reading, Pennsylvania 19601, respectively, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The combined-cycle cogeneration facility will be located in Windsor Locks, Connecticut. The facility will consist of a combustion turbine generating unit, a heat recovery steam generator, and an extraction/condensing steam turbine generating unit. Steam and hot water produced by the facility will be used by C.H. Dexter Division of

The Dexter Corporation to manufacture specialty papers and nonwovens. The net electric power production capacity of the facility will be 52 MW. The primary energy source will be natural gas. The installation of the facility began in 1987.

The original application was filed May 27, 1986, and was granted on August 22, 1986 (36 FERC ¶ 62,216). The recertification is requested due to change of ownership. The legal title to the facility has been transferred to Meridian Trust, not in its individual capacity, but solely as owner trustee.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of New Hampshire

[Docket No. ER89-36-000]

November 4, 1988.

Take notice that on October 28, 1988, Public Service Company of New Hampshire tendered for filing proposed changes in its transmission service to Commonwealth Electric Company. The proposed changes would increase revenues from jurisdictional sales and service by \$324,690 based on the 12 month period ending October 31, 1989.

The proposed change is designed to put in place rates that reflect accurately the costs of the transmission service provided by PSNH and the parties have executed a contract memorializing the changes.

Public Service Company requests waiver of the Commission's notice requirements to permit the transmission agreement to become effective as of November 1, 1988.

Copies of the filing were served upon Commonwealth Electric Company.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. New York State Electric & Gas

[Docket No. ER89-37-000]

November 4, 1988.

Take notice that on October 31, 1988, New York State Electric & Gas Corporation (NYSEG) tendered for filing pursuant to § 35.12 of the regulations under the Federal Power Act, as a rate schedule, an agreement with UNITIL Power Corporation (UNITIL). The short term agreement provides that NYSEG shall sell surplus capability and associated energy to UNITIL. Service under this agreement will commence on November 1, 1988 and shall terminate on April 30, 1989 unless extended in writing by mutual agreement.

NYSEG has filed a copy of this filing with UNITIL Power Corporation and with the Public Service Commission of the State of New York.

NYSEG requests that the 60-day filing requirement be waived and that November 1, 1988 be allowed as the effective date of the filing.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of Colorado

[Docket No. ER89-898-000]

November 4, 1988.

Take notice that on October 31, 1988, Public Service Company of Colorado (Public Service) tendered for filing a proposed change in its Power Purchase and Interchange Agreement (Agreement) with Colorado-Ute Electric Association, Inc. (Colorado-Ute). Public Service states that the proposed change is a Supplement to Public Service's Agreement with Colorado-Ute, dated April 30, 1982, on file with the Commission under Public Service's FERC Rate Schedule No. 37.

Public Service states that the Supplement to the Agreement with Colorado-Ute provides for a change in the billing procedures reflecting Intermountain REA's (REA) wheeling power and energy on behalf of Public Service.

Public Service states that copies of the filing were served upon all parties to the Agreement and affected state commissions.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Allegheny Power Service Corporation on Behalf of Monongahela Power Company, The Potomac Edison Company, West Penn Power Company (The APS Companies)

[Docket No. ER88-615-000]

November 4, 1988.

Take notice that on October 24, 1988, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, tendered for filing information in response to requests by the Staff concerning the initial filing in this docket on September 19, 1988.

Copies of the filing have been served upon American Municipal Power-Ohio, Inc., the Maryland Public Service Commission, the Ohio Public Utilities Commission, the Pennsylvania Public Utility Commission, the Virginia State Corporation Commission, the West

Virginia Public Service Commission, and Elkem Metals Company.

Comment date: November 14, 1988, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER88-606-000]

November 4, 1988.

Take notice that on September 14, 1988, Southern California Edison Company (Edison) tendered for filing a change of rates for transmission service as embodied in Edison's agreements with the following entities which reflects a reduction in rate of return from 11.24 percent to 10.75 percent and changes to depreciation rate authorized by the California Public Utilities Commission (CPUC) to be made effective January 1, 1988.

Rate Schedule FERC No.

1. Arizona Electric Power Cooperative.	131, 161
2. Arizona Public Service Company.	185
3. City of Burbank	166
4. California Department of Water Resources.	38, 112, 113, 181
5. City of Los Angeles Department of Water and Power.	102, 118, 140, 141, 163, 188
6. City of Glendale	143
7. M-S-R Public Power Agency	153
8. Pacific Gas and Electric Company.	117, 147
9. City of Pasadena	158
10. San Diego Gas & Electric Company.	151
11. Western Area Power Authority..	20

Edison requests waiver of the Commission's prior notice requirement and an effective date for these rate changes of January 1, 1988.

In addition, Edison tendered for filing a corrected Exhibit F of Attachment D under ER87-517-000 which corrects a typographical error in the presently effective rate for PG&E, Rate Schedule FERC No. 147. Edison requests waiver of the Commission's prior notice requirement and an effective date for this correction as of July 1, 1987.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: November 14, 1988, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power & Light Company

[Docket No. ER89-41-000]

November 7, 1988.

Take notice that on October 31, 1988, Florida Power & Light Company (FPL) tendered for filing Amendment Number One To Short Term Agreement To Provide Power and Energy by Florida Power & Light Company To Utilities

Commission, City of New Smyrna Beach, Florida.

Under Amendment Number One, FPL and Utilities Commission, City of New Smyrna Beach, Florida have agreed to extend the term of the Short Term Agreement from December 31, 1989 to May 28, 1992. According to FPL, a copy of this filing was served upon the Utilities Commission, City of New Smyrna Beach, Florida and the Florida Public Service Commission.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

9. Ohio Edison Company

[Docket No. ER88-544-000]

November 7, 1988.

Take notice that on October 14, 1988, Ohio Edison Company tendered for filing, pursuant to the Commission's Order of September 30, 1988, two unexecuted Service Agreements between Ohio Edison Company and American Municipal Power-Ohio, Inc.

Comment date: November 22, 1988, in accordance with Standard Paragraph E at the end of this notice.

10. New York State Electric & Gas Corporation

[Docket No. ER89-40-000]

November 7, 1988.

Take notice that on October 31, 1988, New York State Electric & Gas Corporation (NYSEG) tendered for filing pursuant to Section 35.12 of the regulations under the Federal Power Act, as a rate schedule, an agreement with Long Island Lighting Company (LILCO). The short term agreement provides that NYSEG shall sell surplus capability and associated energy to LILCO. Service under this agreement commenced on September 16, 1988 and shall terminate on October 30, 1988 unless extended in writing by mutual agreement.

NYSEG has filed a copy of this filing with Long Island Lighting Company and with the Public Service Commission of the State of New York.

NYSEG requests that the 60-day filing requirement be waived and that September 16, 1988 be allowed as the effective date of the filing.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

11. MSU System Services, Inc.

[Docket No. ER89-34-000]

November 7, 1988.

Take notice that on October 28, 1988, MSU System Services, Inc. (SSI), as agent for Arkansas Power & Light Company (AP&L), Louisiana Power &

Light Company (LP&L), Mississippi Power & Light Company (MP&L) and new Orleans Public Service Inc. (NOPSI), tendered for filing an Interchange Agreement between AP&L, LP&L, MP&L, NOPSI, and SSI (collectively the Middle South System Companies) and Sam Rayburn G&T Electric Cooperative, Inc. (SRG&T) (Interchange Agreement), an Amendment to the Replacement Energy service schedule under the Interchange Agreement, and a letter agreement for the sale of unit and reserve capacity and energy to SRG&T (Letter Agreement).

SSI requests an effective date of January 1, 1989 for the Interchange Agreement, the Amendment to the service schedule, and the Letter Agreement.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

12. Arizona Public Service Company

[Docket No. ER89-35-000]

November 7, 1988.

Take notice that on October 28, 1988, Arizona Public Service Company (APS) tendered for filing a Supplemental Capacity Sale Agreement (Agreement) between APS and Citizen's Utilities Company (CUC).

The Agreement provides for APS to initially supply 6 MW of supplemental capacity for the period December 1, 1988 through February 28, 1989. No new facilities nor modifications to existing facilities will be required to provide the aforementioned service.

A copy of this filing has been served upon Citizens Utilities Company and Arizona Corporation Commission.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

13. Northeast Utilities Service Company

[Docket No. ER89-43-000]

November 7, 1988.

Take notice that on October 31, 1988, Northeast Utilities Service Company (NUSCO), as Agent for the Connecticut Light and Power Company (CL&P) for itself and as successor by merger with the Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO), tendered for filing Notices of Termination of the following rate schedules:

Burlington Exchange Agreement (Middletown/Montville) between CL&P, HELCO, and Burlington Electric Department, dated November 1, 1980 (CL&P's Rate Schedule No. FERC 243, HELCO's FERC No. 244, hereinafter

referred to as "CL&P's Rate Schedule No. FERC 243").

Weekly Exchange Agreement between CL&P, HELCO, and Hardwick Electric Department dated June 1, 1979 (CL&P Rate Schedule No. FERC 206, HELCO's FERC No. 213, hereinafter referred to as "CL&P's Schedule No. FERC 206").

Agreement Between WMECO and Village of Hyde Park With Respect to Gas Turbine Units Located at Doreen and Woodland Road Substation dated April 1, 1983 (WMECO Rate Schedule No. FERC 239).

Agreement Between WMECO and Village of Johnson With Respect to Gas Turbine Units Located at Doreen and Woodland Road Substation dated April 1, 1983 (WMECO Rate Schedule No. FERC 232).

Weekly Exchange Agreement between CL&P, HELCO, and Lyndonville Electric Department dated October 1, 1977 (CL&P Rate Schedule No. FERC 197, HELCO's FERC No. 196, hereinafter referred to as "CL&P's Rate Schedule No. FERC 197").

Weekly Exchange Agreement between CL&P, HELCO, and Ludlow Electric Department dated June 1, 1979 (CL&P Rate Schedule No. FERC 202, HELCO's FERC No. 209, hereinafter referred to as "CL&P's Rate Schedule No. FERC 202").

Weekly Exchange Agreement between CL&P, HELCO, and Morrisville Water and Light Department dated June 1, 1979 (CL&P Rate Schedule No. FERC 204, HELCO's FERC No. 211, hereinafter referred to as "CL&P's Rate Schedule No. FERC 204").

Weekly Exchange Agreement between CL&P, HELCO, and Northfield Electric Department dated June 1, 1979 (CL&P Rate Schedule No. FERC 205, HELCO's FERC No. 212, hereinafter referred to as "CL&P's Rate Schedule No. FERC 205").

Weekly Exchange Agreement between CL&P, HELCO, and Stowe Electric Department dated June 1, 1979 (CL&P Rate Schedule No. FERC 203, HELCO's FERC No. 210, hereinafter referred to as "CL&P's Rate Schedule No. FERC 203").

Weekly Exchange Agreement between CL&P, HELCO, and Washington Electric Cooperative, Inc., dated June 1, 1979 (CL&P Rate Schedule No. FERC 207, HELCO's FERC No. 214, hereinafter referred to as "CL&P's Rate Schedule No. FERC 207").

The rate schedules are to be terminated because they are no longer being utilized by the parties to the agreements. The Commission is requested to allow the terminations to take effect on November 14, 1988.

Notices of the proposed terminations have been served upon all the parties affected by this proceeding.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

14. Northeast Utilities Service Company

[Docket No. ER89-42-000]

November 7, 1988.

Take notice that on October 31, 1988, Northeast Utilities Service Company (NUSCO) tendered for filing proposed changes with respect to a Purchase Agreement with respect to Various Gas Turbine Units between the Connecticut Light and Power Company (CL&P) and Newport Electric Corporation (Newport), dated May 1, 1986.

The proposed changes would not increase rates, but would (1) change the amounts of the purchases provided under and add a unit to the Rate Schedule, and (2) change the date on which the negotiated rate for the capacity charge would be replaced with a cost-of-service rate.

Pursuant to § 35.19 of the Commission's Regulations and in order to conform with the requirements of § 35.18(b) and (c), NUSCO incorporates hereto by reference the information previously submitted to the Commission under FERC Rate Schedule No. CL&P 350 (Agreement).

NUSCO requests that the Commission waive its standard notice period and permit the rate schedule changes to become effective May 1, 1986.

NUSCO states that copies of this rate schedule have been mailed or delivered to CL&P and Newport.

NUSCO further states that the filing is in accordance with section 35 of the Commission's Regulations.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

15. Montaup Electric Company

[Docket No. ER89-47-000]

November 7, 1988.

Take notice that on November 1, 1988, Montaup Electric Company (Montaup) tendered for filing rate schedule revisions incorporating the 1989 forecast billing rate for its purchased capacity, adjustment clause (PCAC) for all-requirements service to Montaup's affiliates Eastern Edison Company (Eastern Edison) in Massachusetts and Blackstone Valley Electric Company (Blackstone) in Rhode Island and contract demand service to three non-affiliated customers: The Town of Middleborough in Massachusetts and the Pascoag Fire District and the Newport Electric Corporation in Rhode

Island. The new forecast billing rate is \$9.47931/kw-Mo. Montaup requests that the new rate become effective January 1, 1989 in accordance with the PCAC.

Montaup's filing was served on the affected customers, the Attorneys General of Massachusetts and Rhode Island, the Rhode Island Public Utilities Commission and the Massachusetts Department of Public Utilities.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this document.

16. Idaho Power Company

[Docket No. ER89-45-000]

November 7, 1988.

Take notice that on October 31, 1988, Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during August 1988, along with cost justification, for the rate charged. This filing includes the following supplements:

Utah Power and Light Company; Supplement No. 78

Pacific Power and Light Company; Supplement No. 25

Sierra Pacific Power Company; Supplement No. 78

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

17. New England Power Company

[Docket No. ER89-46-000]

November 7, 1988.

Take notice that on November 1, 1988, New England Power Company (NEP) tendered for filing an executed Interconnection Agreement with Indeck Energy Services of Turners Falls, Inc., an Illinois Corporation.

The purpose of the Agreement is to facilitate the transmission of power that will be produced by Indeck's planned new cogeneration facility in Turners Falls, Massachusetts to UNITIL Power Corp. (UNITIL) in Exeter, New Hampshire.

NEP requests waiver of the Commission's notice requirements so that the Agreement may become effective July 7, 1988 in accordance with its terms and the intent of the parties.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

18. Southern Company Services, Inc.

[Docket No. ER89-48-000]

November 7, 1988.

Take notice that on November 1, 1988, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company, tendered for filing the Southern Company Intercompany Interchange Contract, together with all Allocation Methodology and Periodic Rate Computation Manual showing the basis for interchange and pooling transactions between such companies. The filing also includes informational schedules which detail the charges and derivation of components of the rate to be used during the calendar year 1989. The new Intercompany Interchange Contract is proposed to be effective on January 1, 1989.

The new Southern Company System Intercompany Interchange Contract constitutes a coordination and interchange agreement between the operating companies of the Southern Company. The Contract provides for certain power pooling transactions, including exchange of interchange energy and the pricing thereof, the purchase and sale of capacity and the rates and charges therefore, as well as other interchange arrangements between the operating companies.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

19. United States Department of Energy Bonneville Power Administration

[Docket No. ER89-2061-000]

November 7, 1988.

Take notice that on November 2, 1988, Bonneville Power Administration (BPA) of the United States Department of Energy tendered for filing a proposed modification of Southern California Edison Company Contract Formula Rate schedule SC-86 (Modified SC-86). BPA requests final confirmation and approval of this rate schedule pursuant to section 7(a)(2) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839e(a)(2), and the Commission's rules for the confirmation and approval of rates for Federal power marketing agencies, 18 CFR Part 300.

BPA does not request interim approval of the Modified SC-86 rate schedule. BPA requests that the Commission grant final approval of the Modified SC-86 Rate schedule by January 15, 1989, for an effective date of July 1, 1989, and that the Commission extend the existing rate approval period

of the original SC-86 rate schedule, as modified, until June 30, 2008. *United States Dep't of Energy—Bonneville Power Adm'n.* 37 F.E.R.C. ¶ 61,345 (1986).

Modified SC-86 applies to the sale of 250 MW of surplus firm power at an annual load factor of 53.57%. It begins at an initial level of 28.5 mills per kWh (a 23% decrease in the initial rate level) and escalates annually using a weighted average of the oil and gas price escalation in the previous year. The operative Modified SC-86 rate in each successive year will be bounded by a floor and ceiling, which escalate each fiscal year based on changes in BPA's average system cost.

Comment date: November 21, 1988, in accordance with Standard Paragraph E at the end of this notice.

20. The Procter & Gamble Paper Products Company

[Docket No. QF89-23-000]

November 7, 1988.

On October 26, 1988, The Procter & Gamble Paper Products Company (Applicant), of 1 Procter & Gamble Plaza, Cincinnati, Ohio 45202-3315 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Oxnard, California. The facility will consist of a combustion turbine generator and a heat recovery steam generator. Steam recovered from the facility will be used in Procter & Gamble's papermaking process. The net electric power production capacity will be 46.77 megawatts. The primary energy source will be natural gas. Installation of the facility began in July 1988.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (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,

Secretary.

[FR Doc. 88-26198 Filed 11-10-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-1-25-000]

Mississippi River Transmission Corp.; Rate Change Filing

November 7, 1988.

Take notice that on October 31, 1988, Mississippi River Transmission Corporation (MRT) tendered for filing, to be effective December 1, 1988, Twenty-Seventh Revised Sheet No. 4 and Alternate Twenty-Seventh Revised Sheet No. 4 to its FERC Gas Tariff, Second Revised Volume No. 1. MRT states that the filing is being submitted to reflect its second quarterly purchased gas cost adjustment (PGA) pursuant to § 154.308 of the Commission's Regulations and the PGA provisions of MRT's tariff, and is designed to track pipeline and producer cost changes and recover costs which have accumulated in its Unrecovered Purchased Gas Cost Account.

In its filing, MRT requests authorization to extend its existing PGA surcharge amortization period, which would presently expire February 1, 1989, to May 31, 1989, in order to mitigate the impact of increases in its current costs of purchased gas during the winter heating season. MRT states that extending the existing surcharge amortization period as proposed will result in a composite reduction of \$519,000 during the subject quarterly PGA period.

MRT also states that the primary tariff sheet included in its filing reflects the impact of a recent agreement in principle reached with United Gas Pipe Line Company (United) pursuant to which MRT will both reduce its current firm sales maximum daily quantity with United and become a firm shipper under United's Rate Schedule FTS, effective November 1, 1988. The primary tariff sheet, Twenty-Seventh Revised Sheet No. 4, reflects both the reduction of sales demand charges presently paid United, as well as the proposed reclassification of certain costs, previously paid United as sales demand charges, which will be paid as fixed transportation reservation fees as a result of MRT's conversion of sales

service to transportation service on the United system. This reclassification will result in a corresponding restatement of MRT's base tariff rates, similar to the cost reclassification and rate restatement resulting from MRT's conversion of firm sales contract demand with Natural Gas Pipeline Company of America, which was recently approved by the Commission at Docket No. RP88-220-000. MRT requests Commission authorization for this proposed cost reclassification and base rate restatement in the subject filing.

MRT further states that Twenty-Seventh Revised Sheet No. 4 reflects a decrease of \$1.93 per Mcf in Demand Charge D-1, a decrease of \$.0021 per Mcf in the Demand charge D-2 and an increase in the CD-1 commodity charge of \$.3868 per Mcf, under MRT's Rate Schedule CD-1. The Rate Schedule SGS-1 single part rate reflects an increase of \$.1980 per Mcf. MRT states that the cost impact of such rate changes on MRT's jurisdictional customers, when applied to quarterly billing determinants, is an increase of \$18.9 million. Alternate Twenty-Seventh Revised Sheet No. 4, reflecting the continuation of the current service agreement with United, contains rates \$7.7 million higher than those on Twenty-Seventh Revised Sheet No. 4.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 395.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 395.214). All such motions or protests should be filed on or before November 15, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26180 Filed 11-10-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-94-010]

**Natural Gas Pipeline Co. of America;
Changes in FERC Gas Tariff**

November 7, 1988.

Take notice that on October 31, 1988, Natural Gas Pipeline Company of America (Natural) submitted for filing

First Revised Sheet Nos. 169 and 170 to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective December 1, 1988.

Natural states that the filing is made in accordance with section 33.2 of its tariff which provides that the Take-or-Pay Settlement Cost Assessments will be redetermined on a semi-annual basis to be effective each June 1 and December 1 through November 30, 1992. The revision to each jurisdictional customer's monthly allocation of transition costs includes (1) interest accrued since May 1, 1988; and (2) additional costs which Natural has incurred since the filing of the initial phrase of the transition costs recovery program.

Natural states the interest is calculated in accordance with the Commission's Regulations as set forth in § 154.67(c)(2)(iii) and allocated by month among the jurisdictional customers based on each customer's pro rata share of the outstanding transition cost balance on which the interest was calculated. Additional transition costs have been allocated among Natural's firm customers in the manner set out in Natural's June 7, 1988 filing under Docket No. RP88-94-005.

Natural requests that the Commission grant any waivers it deems necessary to allow the tariff sheet to become effective December 1, 1988.

A copy of this filing was mailed to Natural's jurisdictional customers, interested state regulatory agencies, and all parties set out on the official service list in Docket No. RP88-94-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426, in accordance the §§ 385.214 and 385.211. All such motions or protests must be filed on or before November 15, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26181 Filed 11-10-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-59-000]

**Northern Natural Gas Co., Division of
Enron Corp.; Purchased Gas Cost
Adjustment Rate Change**

November 7, 1988.

Take notice that on October 31, 1988, Northern Natural Gas Company, Division of Enron Corp. (Northern), tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 (Volume 1 Tariff) and Original Volume No. 2 (Volume 2 Tariff), the following tariff sheets:

Third Revised Volume No. 1

Forty-Ninth Revised Sheet No. 4a
Sixty-Third Revised Sheet No. 4b
Thirty-First Revised Sheet No. 4b.1
Seventh Sheet Revised No. 4g.2

Original Volume No. 2

Seventieth Revised Sheet No. 1c

Northern states that such revised tariff sheets are required in order that Northern may place into effect the proposed rates on January 1, 1989 to:

(1) Reflect Northern's cost of purchased gas to be experienced during the 1st Quarter, 1989, pursuant to Paragraph 18 of Northern's Volume 1 Tariff, and Paragraph 1 of Northern's Volume 2 Tariff.

(2) Reflect a negative surcharge to amortize the overrecovered commodity cost of purchased gas account for the eleven months ended August 31, 1988, and a negative surcharge to amortize the overrecovered demand cost of purchased gas account for the eleven months ended August 31, 1988, both pursuant to Paragraph 18 of Northern's Volume 1 Tariff and Paragraph 1 of Northern's Volume 2 Tariff and also to reflect certain revenue tracking adjustments.

(3) Track the change in the cost of transportation of gas through the Alaska Natural Gas Transportation System (ANGTS) pursuant to Paragraph 21 of Northern's Volume 1 Tariff and Paragraph 4 of Northern's Volume 2 Tariff. In addition, this filing reflects a positive surcharge to amortize the underrecovered cost of transportation of gas through ANGTS for the twelve months ended September 30, 1988.

In the filing, Northern has established a ceiling PGA rate of \$2.5098 per MMBtu which reflects an increase of \$.1615 per MMBtu from the approved 4th Quarter 1988 ceiling PGA rate of \$2.3483 per MMBtu.

Northern states that since the projection of 1st Quarter, 1989 gas purchased costs may not reflect the level of gas purchased costs it actually will experience on January 1, 1989, it

may not bill the commodity rates established in its filing on January 1, 1989. Instead, Northern states that it will utilize its flexible PGA tariff mechanism, if necessary, to reflect in the commodity rates on January 1, 1989, the estimated actual cost of purchased gas being experienced at that time.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 28, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26182 Filed 11-10-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-117-004]

Northern Natural Gas Co., Division of Enron Corp.; Compliance with Order Nos. 483 and 483-A

November 7, 1988.

Take notice that on October 31, 1988, Northern Natural Gas Company, Division of Enron Corp. (Northern), tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 (Volume 1 Tariff) and Original Volume No. 2 (Volume 2 Tariff), the following tariff sheets:

Third Revised Volume No. 1

Seventh Revised Sheet No. 65
Substitute Fifth Revised Sheet No. 66
Substitute Seventh Revised Sheet No. 67
Substitute Sixth Revised Sheet No. 68
Substitute Ninth Revised Sheet No. 69
Substitute First Revised Sheet No. 68a
Substitute Eighth Revised Sheet No. 70
Substitute Fourth Revised Sheet No. 70a
Third Revised Sheet No. 70b
Substitute Fifth Revised Sheet No. 70c

Original Volume No. 2

Substitute Fifth Revised Sheet No. 1d
Substitute Fifth Revised Sheet No. 1e
Substitute Sixth Revised Sheet No. 1f
Substitute Eighth Revised Sheet No. 1g
Substitute Sixth Revised Sheet No. 1h
Substitute Sixth Revised Sheet No. 1i
Substitute Second Revised Sheet No. 1i.1
Fifth Revised Sheet No. 1i.2
First Substitute Original Sheet No. 1i.2a

Northern states such revised revised tariff sheets are required in compliance with the Letter Order dated September 29, 1988, in order that Northern's tariff will be in conformance with Order Nos. 483 and 483-A.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 15, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

FR Doc. 88-26183 Filed 11-10-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-180-004]

Trunkline Gas Co.; Compliance Filing

November 7, 1988.

Take notice that on October 31, 1988 Trunkline Gas Company (Trunkline) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, to be effective December 1, 1988.

These revised tariff sheets to be effective December 1, 1988 reflect (1) compliance with Ordering Paragraphs (B), (C), (D), (E) and (G) of the Commission's Order dated June 30, 1988; (2) compliance with Ordering Paragraph (G) of the Commission's Order dated October 4, 1988; (3) the application of Ordering Paragraphs (B) and (L) of the Commission's Order dated September 28, 1988 in Docket No. RP88-239-000; (4) inclusion of the Annual Charge Adjustment (ACA) pursuant to the Commission's Order in Docket Nos. TM89-1-48-000, *et al.*; (5) the regularly scheduled Quarterly PGA filing to be effective December 1, 1988; and (6) changes to Rate Schedule PT pursuant to the requirements of the Commission's Order No. 497.

Trunkline states that the filing of these revised tariff sheets which satisfies the requirements of the Commission's Orders dated June 30, 1988 and October 4, 1988 in this proceeding is without prejudice to Trunkline's rights on rehearing or in any judicial review proceeding or its

position in this proceeding and the Docket No. RP88-239-000 proceeding.

Copies of this letter and enclosures are being served on all jurisdictional customer, interested state commissions and all parties to this proceeding.

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 November 15, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26184 Filed 11-10-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3475-7]

Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Correction and Request for Comments.

SUMMARY: On November 1, 1988, EPA announced it had submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review, pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The **Federal Register** notice announced that EPA had requested that OMB conduct an expedited review of the ICR, titled "Pesticide Manufacturing Facility Census for 1986, Part B: Economic and Financial Information (EPA ICR #1028)." The notice contained an abstract of the census activity and included a copy of the complete questionnaire, but failed to indicate the deadline for submission of comments on the questionnaire. Today's notice provides this additional information and invites public comment.

FOR FURTHER INFORMATION CONTACT: Ms. Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:**EPA's Request for Expedited Review**

The November 1 Federal Register notice (53 FR 44073) announced that EPA was requesting that OMB conduct an expedited review, pursuant to 5 CFR 1320.18 of the OMB regulations. The basis for seeking expedited review is explained in EPA's letter to OMB of October 26, 1988, as required by § 1320.18(a).

The notice also included a copy of the complete questionnaire, as required by § 1320.15. However, the deadline for submission of comments (required by § 1320.18(d)) was inadvertently omitted from that notice. The deadline for submitting comments is December 9, 1988.

Request for Public Comments

The ICR document (announced in the November 1 notice) provides a description of EPA's need for the Census information and discusses the economic analyses the Agency will conduct. EPA invites comment on the possibility of reducing respondent burden by making three tables in the questionnaire optional. These are Tables 2-H (p. 31), 2-I (p. 34), and 2-J (p. 37). If respondents choose not to complete these tables, the Agency would assess impacts based on financial averages for all products within a given plant. EPA seeks comment on the acceptability of this approach.

Send comments on the Census to:
Sandy Farmer, Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street, SW., Washington, DC 20460

and

Timothy Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20503, [Telephone (202) 395-3084]

Date: November 7, 1988.

Paul R. Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 88-26214 Filed 11-10-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY**Board of Visitors for the Emergency Management Institute; Open Meeting**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement in made of the following committee meeting:

Name:

Board of Visitors (BOV) for the Emergency Management Institute (EMI)

Dates of Meeting:

December 12-14, 1988

Place:

Federal Emergency Management Agency
National Emergency Training Center
Emergency Management Institute
Conference Room, Building N
Emmitsburg, Maryland 21727

Time:

December 12—8:30 a.m. to 5:00 p.m.
December 13—8:30 a.m. to 5:00 p.m.
December 14—8:30 a.m. to Agenda Completion

Proposed Agenda:

BOV task force status reports and working sessions

The meeting will be open to the public with approximately ten seats available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, Emergency Management Institute, Office of Training, 16825 South Seton Avenue, Emmitsburg, Maryland 21727 (telephone number, 301-447-1251) on or before November 30, 1988.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Director's Office, Office of Training, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, Maryland 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: November 1, 1988.

Notice of open meeting.

Robert Volland,

Acting Director, Office of Training.

[FR Doc. 88-26191 Filed 11-10-88; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL RESERVE SYSTEM**Caisse Nationale de Credit Agricole et al.; Applications To Engage de Novo in Permissible Nonbanking Activities**

The companies listed in this notice have filed an application under § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to

banking and permissible for bank holding companies or that has been approved by Order. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 30, 1988.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Caisse Nationale de Credit Agricole*, Paris, France; to engage *de novo* through its subsidiary, UI-USA, Inc., New York, New York, in providing advice in connection with merger, acquisition/divestiture and financing transactions for nonaffiliated financial and nonfinancial institutions; providing fairness opinions in connection with mergers, acquisitions and similar transactions for nonaffiliated financial and nonfinancial institutions; providing advice regarding the structure of and arranging for loan syndications, interest rate "swap", interest rate "cap" and similar transactions; providing valuations of companies and of large blocks of stock for nonaffiliated financial and nonfinancial institutions; and providing financial feasibility studies for specific projects of private companies. These activities have been previously approved by Board Order (*SunTrust Banks, Inc.*, 74 Federal Reserve Bulletin 256 (1988)). Applicant also proposes to engage *de novo* through

its subsidiary in providing portfolio investment advice and research to customers and affiliated, and furnishing general economic information and advice, general economic statistical forecasting services and industry studies to customers and affiliates pursuant to § 225.25(b)(4); making or acquiring loans or other extensions of credit pursuant to § 225.25(b)(1); leasing personal or real property or acting as agent, broker or adviser in leasing such property pursuant to § 225.25(b)(5); and acting as intermediary for the financing of commercial or industrial income—producing real estate by arranging for the transfer of the title, control and risk of such a real estate project to one or more investors pursuant to § 225.25(b)(14) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Bosshard Banco, Ltd.*, La Crosse, Wisconsin; to engage *de novo* through its subsidiary, Vigil Asset Management, Inc., Wausau, Wisconsin, in performing trust functions or activities that may be performed by a trust company pursuant to § 225.25(b)(3) of the Board's Regulation Y. These activities will be conducted in North Central Wisconsin, including Marathon, Portage, Oneida, Lincoln, Forest, Vilas, Taylor, Langlade, Shawano, Wood, Waupaca, Clark, and Price Counties.

Board of Governors of the Federal Reserve System, November 7, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-26141 Filed 11-10-88; 8:45 am]

BILLING CODE 6210-01-M

Harrogate Corp. et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the

Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 2, 1988.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Harrogate Corporation*, Harrogate, Tennessee; to merge with Commercial Bank Group, Inc., formerly Commercial Securities Corporation, Middlesboro, Kentucky, and thereby indirectly acquire Commercial Bank, Middlesboro, Kentucky.

2. *Pasco Financial Corporation*, Dade City, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Pasco, Dade City, Florida.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Community Bancorp., Inc.*, St. Charles, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Community State Bank of St. Charles, St. Charles, Michigan.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Dassel Investment Company*, Minneapolis, Minnesota; to acquire an additional 0.54 percent of the voting shares of Fidelity State Bank, New Prague, Minnesota.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *New Hampton Bancshares, Inc.*, Albany, Missouri; to merge with Security Bancshares, Inc., Albany, Missouri, and thereby indirectly acquire Bank of Gallatin, Gallatin, Missouri. Comments on this application must be received by November 30, 1988.

E. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Mineral King Bancorp., Inc.*, Visalia, California; to become a bank holding company by acquiring 100 percent of the voting shares of Mineral King National Bank, Visalia, California.

Board of Governors of the Federal Reserve System, November 7, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-26142 Filed 11-10-88; 8:45 am]

BILLING CODE 6210-01-M

Lake Crystal Bancorporation, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 2, 1988.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Lake Crystal Bancorporation, Inc.*, Lake Crystal, Minnesota; to acquire Lake Crystal National Agency, Inc.,

Lake Crystal, Minnesota, and thereby engage in insurance activities pursuant to § 225.25(b)(8) of the Board's Regulation Y. These activities will be conducted in Lake Crystal, Minnesota, with a population of 2,200, and the surrounding area. The trade area to be served has a population of approximately 4,000.

Board of Governors of the Federal Reserve System, November 7, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-26143 Filed 11-10-88; 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 the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 28, 1988.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Wayne R. and Virginia E.L. McKinney*, Kearney, Nebraska; to acquire an additional 6.52 percent of the voting shares of Circle Management Company, Kearney, Nebraska, and thereby indirectly acquire Guaranty Trust Company, Kearney, Nebraska, and Platte Valley State Bank and Trust Co., Kearney, Nebraska.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *Siegel & Feldstein Voting Trust*, Los Angeles, California; to acquire between 20 and 35 percent of the voting shares of Griffin Holdings, Inc., Los Angeles, California, and thereby indirectly acquire Guaranty Bank of California, Los Angeles, California.

Board of Governors of the Federal Reserve System, November 7, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-26144 Filed 11-10-88; 8:45 am]

BILLING CODE 6210-01-M

Scandinavian Bank Group plc; Acquisition of Company Engaged in Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a) or (f) of the Board's Regulation Y (12 CFR 225.23 (a) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 30, 1988.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *Scandinavian Bank Group plc*, London, England; to engage *de novo* through its subsidiaries, Cambridge International Partners, L.P., New York, New York, and Cambridge International Partners Inc., New York, New York, in acting as financial adviser, either on a

retained or success fee basis, in providing corporate finance advisory services, including advice concerning domestic and international mergers, acquisitions, joint ventures and divestitures, financings, and the structuring of leveraged buyouts and other capital-raising vehicles.

In connection with the Subsidiary's advice concerning the financial of transactions, it may seek to arrange equity and/or debt financing for transactions or other client purposes (e.g., leveraged buyouts, acquisitions, large capital projects, financial restructurings, refinancings, working capital, etc.). In the course of arranging such financing or separately, the Subsidiary may provide advice to client with respect to the appropriateness or desirability of alternate financings or capital structures, and may assist clients in structuring and negotiating the terms of specific financings.

The Board has previously determined by order that the activity described above—the provision of advice by a subsidiary of a bank holding company in connection with merger, acquisition, joint venture, divestiture and financing transactions—is an activity which is closely related to banking and permissible for bank holding companies generally. *Signet Banking Corporation*, 73 Federal Reserve Bulletin 59 (1987); *Sovran Financial Corporation*, 73 Federal Reserve Bulletin 744 (1987); *The Bank of Nova Scotia*, 74 Federal Reserve Bulletin 249 (1988). Applicant agrees to conduct its activities in accordance with certain limitations approved by the Board in these orders.

Board of Governors of the Federal Reserve System, November 7, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-26145 Filed 11-10-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83F-0239]

Akzo Chemicals, Inc.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejudice to future filing of a petition proposing a change in the food additive regulations to permit

an increase in the use level limitation for certain polyamine-epichlorohydrin wet-strength resins intended for use in paper and paperboard.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 9, 1983 (48 FR 36203), FDA published a notice that a petition (FAP 3B3729) had been filed by Monsanto Co., 800 North Lindberg Blvd., St. Louis, MO 63166, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to permit an increase in the limitations for certain polyamine-epichlorohydrin wet-strength resins intended for use in paper and paperboard. Monsanto Co. subsequently sold the rights to the petition to Akzo Chemicals, Inc., 300 South Riverside Plaza, Chicago, IL 60606. Akzo Chemicals, Inc., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: November 3, 1988.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

Health Resources and Services Administration

Funding Preferences and Priorities for Grants for Area Health Education Centers Special Initiatives

The Health Resources and Services Administration announces the final funding preferences and priorities for Area Health Education Centers Special Initiatives.

Section 781(a)(2) authorized Federal assistance to medical and osteopathic schools which have previously received Federal financial assistance for the Area Health Education Centers (AHEC) program under either section 802 of Pub. L. 94-484 in 1979 or under section 781. In addition, section 781(a)(2) authorizes medical and osteopathic schools currently receiving Federal support for an AHEC program to apply for project aid on behalf of an Area Health Education Center that is no longer federally funded as part of that program.

Section 781(a)(2) applications will be for the purpose of improving the distribution, supply, quality, utilization and efficiency of health personnel in the health services delivery system; to encourage regionalization of

responsibility of the health professions schools; or to prepare, through preceptorships and other programs, individuals subject to a service obligation under the National Health Service Corps Scholarship program to provide effective health services in health manpower shortage areas.

To receive support, programs must meet the requirements of regulations set forth in 42 CFR Part 57, Subpart MM.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The relative merit of the proposed project and;
2. The relative cost-efficiency of the proposed project.

In addition, the following mechanisms may be applied in determining the funding of approved applications:

1. Funding preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuations ahead of new projects.
2. Funding priorities—favorable adjustment of review scores by HRSA staff when applications meet specified objective criteria.
3. Special considerations—enhancement of priority scores by merit reviewers based on the extent to which applications address special areas of concern.

Proposed funding preferences and priorities were published in the Federal Register of August 24, 1988 (FR 32281) for public comment under Area Health Education Centers Special Initiatives. No comments were received during the 30-day comment period.

Therefore, the funding preferences and priorities as proposed are retained as follows:

Final Funding Preferences

In making Area Health Education Center awards for Fiscal Year 1989, the final funding preferences are as follows:

- (1) Competing continuation applications;
- (2) New applications for planning and development projects under section 781(a)(1);
- (3) New applications for Special Initiatives projects under Section 781(a)(2); and
- (4) Supplements to existing awards.

Final Funding Priorities

In determining the order of funding of approved applications the final funding priorities are as follows:

- (1) Applications proposing to develop, expand or implement curricula concerning ambulatory and inpatient

case management of those with HIV infection-related diseases.

(2) Applications demonstrating a commitment to geriatrics through development of innovative educational ways to provide improved and more effective care for the elderly.

(3) Applications which are innovative in their educational approaches to quality assurance/risk management activities, monitoring and evaluation of health care services and utilization of peer-developed guidelines and standards.

This program is listed at 13.824 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR Part 100).

Dated: November 7, 1988.

John H. Kelso,

Acting Administrator.

[FR Doc. 88-26160 Filed 11-10-88; 8:45 am]

BILLING CODE 4160-15-M

Program Announcement, Funding Preferences and Proposed Funding Priorities for Grants for Residency Training and Advanced Education in the General Practice of Dentistry

The Health Resources and Services Administration announces that applications for Fiscal Year 1989, Grants for Residency Training and Advanced Education in the General Practice of Dentistry are being accepted under the authority of section 786(b) of the Public Health Service Act as amended and invites comments on the proposed funding priorities set forth below.

Section 786(b) of the Act authorizes the Secretary to make grants to any public or nonprofit private school of dentistry or accredited postgraduate dental training institution (e.g., hospitals and medical centers) to plan, develop, and operate an approved residency or advanced educational program in the general practice of dentistry and to provide financial assistance to participants in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry.

Approximately \$1.2 million is being made available by the Department of Health and Human Services appropriations for Fiscal Year 1989. (Pub. L. 100-436). In addition to funding noncompeting continuations, it is estimated that 15 projects averaging \$81,000 will be supported.

To receive support, programs must meet the requirements of final regulations at 42 CFR Part 57, Subpart L.

Review Criteria

The review of applications will take into consideration the following criteria:

(a) The potential effectiveness of the proposed project in carrying out the training purposes of section 786(b) of the Act;

(b) The degree to which the proposed project adequately provides for meeting the project requirements;

(c) The administrative and managerial capability of the applicant to carry out the proposed project in a cost-effective manner;

(d) The qualifications of proposed staff and faculty;

(e) The potential of the project to continue on a self-sustaining basis after the period of grant support; and

(f) The degree to which the proposed project proposes to attract, maintain and graduate minority and disadvantaged students.

In addition, the following mechanisms may be applied in determining the funding of approved applications:

1. Funding preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuations ahead of new projects.

2. Funding priorities—favorable adjustment of review scores by HRSA staff when applications meet specified objective criteria.

3. Special considerations—enhancement of priority scores by merit reviewers based on the extent to which applications address special areas of concern.

Funding Preferences

Funding preferences were established in the *Federal Register* of April 17, 1986, (51 FR 13099).

The following established preferences will be used in making grant awards in Fiscal Year 1989:

New programs (Category 1), followed by expanding programs (Category 2), and then program improvements (Category 3), and within Category 1, first funding will be for approved applications designed to establish programs in States in which no nonfederal supported residency or advanced educational programs in general dentistry are currently in operation.

There is no funding preference between residency training programs and advanced educational programs in general dentistry.

In accordance with section 786(b) of the Act, three distinct categories of program development can be supported. Applications must address at least one of these categories.

Category 1: Program Initiation

An applicant may request support for up to one year of program planning and development, followed by two years of program operation. For this purpose an applicant must show, at a minimum, preliminary provisional approval from the Commission on Dental Accreditation before the initial grant award date (grants will be effective July 1 of the current fiscal year). Before a second year grant award will be made, the grantee must show an accreditation classification of accreditation eligible.

Category 2: Program Expansion

An applicant may request support for an existing program which has full approval accreditation classification to fund the cost of a first-year enrollment increase in the program.

Category 3: Program Improvement

An applicant may request support for an existing program which has conditional approval or provisional approval accreditation to correct deficiencies or weaknesses in order to gain full approval accreditation status. Support is also available for an existing program which has full approval accreditation for changes or additions in faculty, curriculum and/or facilities to enhance the quality of the program.

Proposed Funding Priorities

In determining the order of funding of approved applications it is proposed to give a funding priority to the following:

(1) Projects which satisfactorily document enrollment of underrepresented minorities in proportion or more to their numbers in the general population or can document a net increase of underrepresented minorities (i.e., Black, Hispanic and American Indian/Alaskan Native or Pacific Islanders) over average enrollment of the past three years in the project's postgraduate year (PGY) trainees.

These population groups continue to be underrepresented in the dental profession and have insufficient access to dental care. Their representation should be increased to promote more equitable opportunities for postgraduate training in dentistry and improved access to dental care services. Studies show that minority dentists provide a greater proportion of dental care for dentally underserved populations than other United States dentists. Therefore,

this funding priority is designed to increase opportunities for advanced training of underrepresented minority dentists.

(2) Projects in which substantial training experiences is in a PHS 332 health manpower shortage area and/or PHS 329 migrant health center, PHS 330 community health center or PHS 781 funded Area Health Education Center or State designated clinic/center serving an underserved population. Section 329 authorizes support for migrant health facilities nationwide and comprises a network of health care services for migrant and seasonal farm workers. Section 330 of the Public Health Service Act is the authority which supports community health centers providing primary health services to persons located in rural and urban areas with financial and/or geographic barriers to care. Section 781 authorizes a national program to support area health education centers and projects to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system. There are an estimated 788 dental manpower shortage areas with an estimated underserved population of 7,145,722. An estimated 1,717 dental practitioners are needed to remove these areas from the shortage designation.

These designations include geographic areas, population groups and facilities. The proposed funding priority is designed to provide trainees with substantial training in health manpower shortage areas, community health centers, migrant health centers, and State facilities serving underserved populations. An applicant applying for this priority through a State or local designation must have written documentation from the appropriate State or local authority responsible for designating health personnel shortages for geographic areas, population groups and/or facilities. This documentation must indicate that the designated geographic areas, population groups, and/or facilities are part of a State or local plan to increase service access to underserved populations. These experiences are expected to have a positive influence on the selection of practice locations of such trainees. The application of this funding priority is also to provide a more integrated Federal strategy to the implementation of health professions assistance and primary health service programs.

(3) Applications proposing to develop, expand or implement curricula concerning ambulatory and inpatient case management of HIV/AIDS patients.

Health professionals are increasingly required to provide a wide range of services of HIV-infected persons. However, widespread organized curricula offerings for these trainees are not in place. The proposed priority is designed to encourage new offerings.

(4) Applications which are innovative in their educational approaches to quality assurance/risk management activities, monitoring and evaluating of dental services and utilization of peer-developed guidelines and standards. Assuring quality in the health care system is increasingly becoming the responsibility of health care providers. The proposed funding priority is designed to encourage increased emphasis on the principles and methods of health care quality assurance and risk management in the continuum of the dental education process.

(5) Applications proposing to provide substantial multidisciplinary geriatric training experiences in multiple ambulatory settings and inpatient and extended care facilities.

The population 65 years of age and over will increase about 2 percent a year between now and 2020 (compared to an increase of less than 1 percent for younger persons). The oldest (85-plus) segment of the population will experience the most rapid growth before 2000. The youngest old (65-74) segment will increase fastest between 2000 and 2020. The older population will require expansion of a wide range of dental services. However, dentists lack adequate training needed to care for this aging population. The proposed funding priority is designed to provide increased emphasis on geriatrics training for all dental trainees.

Interested persons are invited to comment on the proposed funding priorities. Normally, the comment period would be 60 days. However, due to the need to implement any changes for the Fiscal Year 1989 award cycle, this comment period has been reduced to 30 days. All comments received on or before December 14, 1988 will be considered before the final funding priorities are established. No funds will be allocated or final selections made until a final notice is published stating whether the final funding priorities will be applied.

Written comments should be addressed to: Director, Division of Associated and Dental Health Professions, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8-101, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and

copying at the Division of Associated and Dental Health Professions at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Grant application materials are being mailed only in response to requests received. Such requests and questions regarding grants policy should be directed to: Grants Management Officer (D-30), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Rooms 8C-22, Rockville, Maryland 20857, Telephone: (301) 443-6857.

Applications should be sent to the Grants Management Officer at the above address.

To obtain specific information concerning programmatic aspects of the grant program, contact: Dental Health Branch, Division of Associated and Dental Health Professions, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C-15, Rockville, Maryland 20857. Telephone: (301) 443-6837.

The application deadline date is January 13, 1989. Applications will be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications received after the deadline date will be returned to the applicant.

The standard application form PHS 6025-1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915-0060.

This program is listed at 13.897 in the *Catalog of Federal Domestic Assistance*. Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR Part 100).

Dated: November 7, 1988.

John H. Kelso,

Acting Administrator.

[FR Doc. 88-26161 Filed 11-10-88; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Cancer Institute; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, December 1-2, 1988, at the Guest Quarters Hotel, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

This meeting will be open to the public on December 1 from 8:30 a.m. to 9 a.m. for reports by the Executive Secretary and Chairman of the Cancer Clinical Investigation Review Committee. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 1, from 9 a.m. to recess; and on December 2 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications and cooperative agreements. These grant applications and cooperative agreements and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with these applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Mary Ann Sestili, Executive Secretary, Cancer Clinical Investigation Review Committee, National Cancer Institute, Westwood Building, Room 836, National Institutes of Health, Bethesda, Maryland 20892 (301/496-7481) will provide substantive program information upon request.

Dated: November 4, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-26221 Filed 11-10-88; 8:45 am]

BILLING CODE 4140-01-M

National Center for Nursing Research; Meeting of National Advisory Council for Nursing Research

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Council for Nursing

Research, National Center for Nursing Research, February 16-17, 1989, Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on February 16, from 9 a.m. to 1:30 p.m. and on February 17 from 8:30 a.m. to adjournment. Agenda items to be discussed will include the NCNR Director's Report, report of the meeting of the Advisory Committee to the Director, NIH, renewal of statement of understanding, update on FIRST awards, Nursing Research Agenda update, competing continuations, biological dimensions of nursing research, and report of Information Resources Group.

Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 16 at 1:30 p.m. to completion of the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ruth K. Aladj, Executive Secretary, National Advisory Council for Nursing Research, National Institutes of Health, Building 31A, Conference Room 2, Bethesda, Maryland 20892, (301) 496-0472, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: November 4, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-26222 Filed 11-10-88; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-88-1890]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form

number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 2, 1988.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Monthly Survey of Private Mortgage Insurance Activity

Office: Housing

Description of the Need for the Information and its Proposed Use: This survey enables private and public officials to track the growth and contributions of private mortgage insurance industry and provides aggregate statistics for market share analysis. Data obtained from private mortgage insurance companies ensure a sound analysis of Mortgage Market Trends and future outlook.

Form Number: HUD-9040

Respondents: Businesses or Other For-Profit and Federal Agencies or Employees

Frequency of Submission: Monthly
Reporting Burden:

Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
Survey.....		13		12		.083
						13

Total Estimated Burden Hours: 13

Status: Reinstatement

Contact: John N. Dickie, HUD (202) 755-7270; John Allison, OMB, (202) 395-6880.

Date: November 1, 1988.

Proposal: Insurance Information

Office: Public and Indian Housing

Description of the Need for the Information and Its Proposed Use: The Annual Contributions Contract requires that public housing agencies and Indian housing authorities obtain adequate fire insurance, extended coverage insurance,

and boiler insurance to protect the Federal interest. The form, HUD-5460, provides the format for determining the initial amount of insurance required for each project. The form is also used to update insurance property values for

renewals of property insurance contracts.

Form Number: HUD-5460
Respondents: Non-Profit Institutions

Frequency of Submission:
Recordkeeping and On Occasion
Reporting Burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
Insurance information form.....	500		1		1.00		500
Recordkeeping.....	500		1		.25		125

Total Estimated Burden Hours: 625
Status: Reinstatement
Contact: Ralph E. Lecky, HUD, (202) 755-8145; John Allison, OMB, (202) 395-6880.
Date: November 2, 1988.
Proposal: Tenant Participation and Management in Public Housing Projects: Eligibility for Comprehensive Improvement Assistance Program Funds (FR-2519)
Office: Public and Indian Housing

Description of the Need for the Information and Its Proposed Use: The nine specific information collections in the final rule (24 CFR Part 964) adhere to the statutory model outlined in section 122 of the Housing and Community Development Act of 1987. The information provided to tenants will allow them to comment on management policies and actions. Resident Management Corporations' contracts and budgets may be used by PHAs for

accounting, auditing, and performance review.

Form Number: None
Respondents: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
Appeal process with resident management.....	50		1		2		100
PHAs' policies to tenants.....	2,000		1		1		2,000
Advisory guidelines.....	1,000		1		1		1,000
Memo of understanding.....	500		1		2		1,100
Budget guidelines.....	1,000		1		1		1,000
PHA and management contract agreement.....	100		1		1		800
Operating budget.....	100		1		8		800
Rejection documentation.....	50		1		2		100
Summary of tenant comments.....	500		1		4		2,000

Total Estimated Burden Hours: 8,800
Status: Revision
Contact: Janice D. Rattley, HUD, (202) 755-7970; John Allison, OMB, (202) 395-6880.
Date: November 3, 1988.
[FR Doc. 88-26254 Filed 11-10-88; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

DEPARTMENT OF ENERGY

Western Area Power Administration

Hoover Powerplant Modification, Boulder Canyon Project, Arizona/ Nevada

AGENCIES: Bureau of Reclamation, DOI, and Western Area Power Administration, DOE.

ACTION: Notice of intent to contract with the Arizona Power Authority (APA) and the Colorado River Commission

(CRC) for a feasibility study for additional hydropower development and a notice of a proposal to grant a right of first refusal to entities funding feasibility studies.

SUMMARY: By letter dated May 3, 1988, APA and CRC jointly submitted a proposal (Joint Proposal) to the Bureau of Reclamation (Reclamation) and Western Area Power Administration (Western) wherein APA and CRC proposed to contract for a study of the feasibility of development of a Hoover Modifications Hydroelectric Project pursuant to the provisions of the Boulder Canyon Project Act of 1928 (43 U.S.C. 617, *et seq.*) and the Contributed Funds Act (43 U.S.C. 395). As a result of this proposal, a notice was published in the **Federal Register** on July 15, 1988 (53 FR 26893), which acknowledged receipt of the proposal and requested that any comments and/or additional proposals be submitted to Reclamation.

Reclamation received four letters commenting on the proposal; three in

support of the proposal and one from the city of Vernon, California, which requested information, expressed concerns about scheduling problems if the modification program were adopted, and asked that certain allocation procedures be developed that might be beneficial to Vernon.

This notice Reclamation's and Western's intent to negotiate an agreement for a feasibility study of the Hoover Powerplant modification with APA and CRC. Reclamation and Western, in coordination with APA and CRC, will jointly conduct these studies, which include any environmental studies that may be required and which will be financed by APA and CRC. This notice also proposes to grant APA and CRC a right of first refusal to fund construction work and to receive an allocation of the resulting capacity.

DATE: Final comments on the proposed selection of APA and CRC as financiers of the feasibility study and the proposed grant of a right of first refusal contained

in this notice must be submitted no later than December 14, 1988.

ADDRESS: Comments should be sent to: Mr. Benedict R. Radecki, Assistant Manager, Washington Liaison Office, Resource Management, Bureau of Reclamation, 18th and C Streets, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Johnson, Chief, Water, Lands, and Power Division, Lower Colorado Region, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, (702) 293-8414, concerning power development matters; or Mr. Earl W. Hodge, Assistant Area Manager for Power Marketing, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, Nevada 89005, (702) 477-3255, concerning power marketing and transmission matters.

Availability of Information: Copies of the proposal may be obtained upon request from the contacts identified above.

SUPPLEMENTARY INFORMATION:

Contents

- A. Discussion of Public Comments.
- B. Evaluation of the Proposal.

A. Discussion of Public Comments

As a result of the **Federal Register** notice of July 15, 1988 (53 FR 26893), noting receipt of a proposal for the study of hydropower development on the Boulder Canyon Project and requesting comments and/or additional proposals, four letters were received.

Comments from two of the commenters (Salt River Project and Arizona Public Service Company) were supportive of the proposal. They also stated that if the study indicated the modification program was feasible, they would support APA and CRC as the entities to finance and develop the modification program.

APA and CRC were the third entities responding to the July 15, 1988, **Federal Register** notice. As potential developers of the modification program at Hoover Powerplant, APA and CRC were appreciative of the publication of their proposal in the **Federal Register** and were anticipating further assistance and advice from Western and Reclamation.

A fourth letter from the City of Vernon, California, requested copies of previous studies prepared by Western and Reclamation and a copy of the Joint Proposal submitted by APA and CRC dated May 3, 1988. Reclamation submitted copies of these documents to Vernon by letter dated September 29, 1988. Vernon also suggested that serious scheduling problems could occur if the modification program were adopted

without attempting to provide benefits to the other existing contractors, and requested that the study explore and recommend that additional benefits be allocated to Vernon if the modification program appears feasible. If constructed, capacity resulting from the modification program will be scheduled in a manner that will not adversely impact existing Boulder Canyon Project power contractors. Vernon's concerns about scheduling problems appear to be premature and will be addressed at a later date.

Since the feasibility studies will be funded with non-Federal financing, it is proposed that the financing entities will receive a right of first refusal to finance any construction that might take place and to receive allocations of capacity from the modifications in recognition of that financial contribution.

Reimbursement of past study costs incurred by Reclamation may also be required. Constructed facilities would be owned and operated by the United States. The financing entities would be responsible for marketing and operating expenses. Should the condition exist whereby the financing entities do not desire or cannot use capacity allocated to them in recognition of their investment, such capacity could be allocated to others in accordance with applicable marketing criteria.

B. Evaluation of the Proposal

Reclamation and Western have evaluated the Joint Proposal, dated May 3, 1988, wherein APA and CRC proposed to contract for a study for the feasibility of a Hoover Modifications Hydroelectric Project. Reclamation and Western propose to enter into negotiations with those two entities after completion of the final comment period announced in this **Federal Register**.

Date: November 8, 1988.

C. Dale Duvall,

Commissioner, Bureau of Reclamation.

Date: November 4, 1988.

William H. Claggett,

Administrator, Western Area Power Administration.

[FR Doc. 88-26197 Filed 11-10-88; 8:45 am]

BILLING CODE 4310-09-M

DEPARTMENT OF THE INTERIOR

Mineral Management Service

Pacific OCS Region Workshop on Oil and Gas Production Platform on Rocky Reef Fishes and Fisheries

AGENCY: Minerals Management Service, Pacific OCS Region, Interior.

ACTION: Announcing Public Workshop: "Effects of an Outer Continental Shelf Oil and Gas Production Platform on Rocky Reef Fishes and Fisheries"

SUMMARY: As proposed by the Minerals Management Service (MMS), Pacific Outer Continental Shelf (OCS) Region, Fiscal Year 1989 Environmental Study Plan (June 1988), the MMS anticipates the release of an open, competitive Request for Proposals (RFP) to address the topic "Effects of an OCS Oil and Gas Production Platform on Rocky Reef Fishes and Fisheries". The study site will include production platform Hidalgo and adjacent deep water reefs, located 12 nautical miles northwest of Point Conception, California. Because water depths at the study site range from about 100 to 200 meters, sampling will include remote photographic and video techniques and from Remotely Operated Vehicles (ROVs) and/or submersibles. Prior to the release of the RFP (scheduled for February 1989), MMS will hold a public workshop to discuss and receive comments on the project's background, rationale, objectives, and potential sampling methodologies. MMS will consider the information and recommendations that result from the workshop in preparation of the RFP.

The one-day workshop will be held December 14, 1988 in Los Angeles, California. Invited experts will present 20-minute summary papers on topics related to (1) past and ongoing studies near the platform Hidalgo study site; (2) existing commercial and recreational fishing in the area; (3) fish survey techniques using SCUBA, ROVs, and submersibles; (4) feasibility of studying the behavior and movements of fishes via multi-beam acoustics and/or tagging; (5) studies of the food habits of fisheries; and (6) biochemical studies to examine potential hydrocarbon and metal contamination. The workshop will conclude with a round-table discussion of priorities for study objectives and methodologies. A proceedings volume that summarizes the meeting will be available from MMS about one month after the meeting.

TIME AND LOCATION OF WORKSHOP: 8:00 a.m.—5:00 p.m., Wednesday, December 14, 1988; Mosher Lecture Hall, Occidental College; Pasadena, California. The workshop will be hosted by Dr. John Stephens, Biology Department, Occidental College, 1600 Campus Road, Los Angeles, California. Telephone (213) 259-2675.

WORKSHOP REGISTRATION: Attendees will be asked to register at the workshop. No pre-registration is

available. There will be no registration fee.

FOR FURTHER INFORMATION CONTACT: Dr. Gary D. Brewer, Minerals Management Service, Pacific OCS Region, 1340 West 6th Street, Los Angeles, California 90017. Telephone (213) 894-4023, (FTS) 798-4023 (office hours: 7:00 a.m.—4:30 p.m., Monday—Friday). A copy of a three-page study prospectus, as it appeared in the MMS Pacific OCS Region Fiscal Year 1989 Environmental Study Plan, is available from Dr. Brewer.

Dated: November 7, 1988.

J. Lisle Reed,

Director, Pacific OCS Region.

[FR Doc. 88-26217 Filed 11-10-88; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Acadia National Park Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. 1 Sec. 10), that a meeting of the Acadia National Park Advisory Commission will be held on Monday December 12, 1988.

The Commission was established pursuant to Pub. L. 99-420, Sec. 103. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the Park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at the Bass Harbor Fire Station, Bass Harbor, Maine, at 1:00 p.m. to consider the following agenda:

- (1) Old business:
 - (A) Cameron and DeLaitre Farm easements owned by Margaret Rockefeller.
- (2) New business:
 - (A) Committee reports, acquisition, easement.
- (3) Proposed agenda and date of next Commission meeting.

The committee meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the

Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609.

Steven H. Lewis,

Acting Regional Director.

Date: November 4, 1988.

[FR Doc. 88-26225 Filed 11-10-88; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 343-7340.

Title: Surface Mining Permit Applications—Minimum Requirements for Permits for Special Categories of Mining 30 CFR 785.

OMB Number: 1029-0040.

Abstract: Sections 507(b), 508(a) and 515 (b) and (d) of Pub. L. 95-87 require applicants for surface coal mine permits to provide a description of each existing structure proposed to be used in the mining and reclamation operation and a compliance plan for each structure proposed to be modified or constructed for use in the operation. This information is used by the regulatory authority in determining if the applicant can comply with the applicable performance and environmental standards.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Surface Coal Mining Operators.

Annual Responses: 7,616.

Annual Burden Hours: 133,103.

Estimated Completion Time: 17.

Bureau Clearance Officer: Nancy Ann Baka, (202) 343-5981.

Date: October 24, 1988.

Richard O. Miller,

Chief, Regulatory Development and Issues Management.

[FR Doc. 88-26176 Filed 11-10-88; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-167 (Sub-1090X)]

Consolidated Rail Corp.; Abandonment Exemption in Cambria County, PA

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 3.6-mile line of railroad known as the Barnes Industrial Track, between its connection with applicant's Cresson Secondary Track near milepost 0.0 at Bradley Junction and the end of the line near milepost 3.6, located in Cambria County, PA.

Applicant has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; and (2) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective December 14, 1988 (unless stayed pending reconsideration). Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) ¹ must be filed by November 25, 1988. Petitions to stay regarding matters that do not involve environmental issues ²

¹ See *Exempt. of Rail Abandonment—Offers of Financ. Assist.*, 4 I.C.C. 2d 164 (1987), and final rules published in the *Federal Register* on December 22, 1987 (52 FR 48440-48446).

² A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 4 I.C.C.2d 400 (1988).

and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by December 4, 1988 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles E. Mechem, Consolidated Rail Corporation, Six Penn Center Plaza, Room 1138, Philadelphia, PA 19103-2959.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by November 18, 1988. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275-7316.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: November 7, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88-21685 Filed 11-10-88; 8:45am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Maryland:

MD88-1 (Jan. 8, 1988) pp. 416, 418.
MD88-11 (Jan. 8, 1988) p. 444.
MD88-15 (Jan. 8, 1988) pp. 454-455.

Maine:

ME88-3 (Jan. 8, 1988) p. 463.

Pennsylvania:

PA88-8 (Jan. 8, 1988) pp. 912-915.
pp. 919-920.

Pennsylvania:

PA88-12 (Jan. 8, 1988) pp. 938-940.
PA88-20 (Jan. 8, 1988) p. 981

Volume II

Illinois:

IL88-2 (Jan. 8, 1988) pp. 96-98,
101.
IL88-7 (Jan. 8, 1988) pp. 136-140b.
IL88-8 (Jan. 8, 1988) p. 143.
IL88-12 (Jan. 8, 1988) p. 164.
IL88-13 (Jan. 8, 1988) p. 174.
IL88-14 (Jan. 8, 1988) p. 184.

Indiana:

IN88-6 (Jan. 8, 1988) pp. 300-302,
pp. 305-306.

Kansas:

KS88-6 (Jan. 8, 1988) p. 346.
KS88-8 (Jan. 8, 1988) p. 354.

Nebraska:

NE88-11 (Jan. 8, 1988) p. 692d.
Listing by Location (index) pp. xxxv-
xxxvi

Volume III

Colorado:

CO88-2 (Jan. 8, 1988) pp. 114-115.
CO88-4 (Jan. 8, 1988) pp. 120-125.

Nevada:

NE88-2 (Jan. 8, 1988) pp. 260-261.

Oregon:

OR88-1 (Jan. 8, 1988) pp. 302-304,
pp. 306-308,
pp. 311-312.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts,

including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon Act Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 4th day of November 1988.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 88-25923 Filed 11-10-88; 8:45 am]

BILLING CODE 4510-27-M

MONITORED RETRIEVABLE STORAGE REVIEW COMMISSION

Meeting

Pursuant to its authority under Subtitle A of Pub. L. 100-203, the Nuclear Waste Policy Amendments Act of 1987, notice is hereby given that the Monitored Retrievable Storage Review Commission will hold a meeting on Wednesday, November 16, 1988 from 2:30-3:30 p.m. in Suite 318, 1825 K Street NW, Washington DC 20036.

The purpose of the meeting will be to obtain additional information from officials of COGEMA, a nuclear fuel cycle company, following recent visits by the Commissioners to nuclear waste storage facilities in Sweden, France, Germany, and Switzerland. Mr. Claude Seyve, Director Commercial Adjoint for COGEMA, will be answering the Commissioners' questions.

Members of the public are permitted to attend this meeting only as observers. As meeting space is very limited, anyone interested in attending is requested to contact the Commission in advance. A transcript of the meeting will be kept and placed in the Commission's Public Document Room following the meeting. For further information, contact Ms. Paula N. Alford Director, External Affairs, MRS

Commission, 1825 K Street NW., Suite 318, Washington, DC 20006. (202) 653-5361.

Jane A. Axelrad,

Executive Director and General Counsel.

November 8, 1988.

[FR Doc. 88-26245 Filed 11-10-88; 8:45 am]

BILLING CODE 6820-BE-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The NRC has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new revision or extension: Revision.

2. Title of the information collection: 10 CFR Part 21, "Reporting of Defects and Noncompliance," and 10 CFR 50.55(e), "Reporting of Defects in Design and Construction."

3. the form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. who will be required or asked to report: NRC licensee and directors or responsible officers of non-licensees that supply components to licensed facilities or activities.

6. An estimate of the number of responses: 300 Parts 21 and 900, § 50.55(e) reports annually.

7. An estimate of the total number of hours needed to complete the requirements or request: Part 21—52,200 hours per year, § 50.55(e)—19,050 hours per year.

8. The average burden per response is: Part 21—167 hours per year, § 50.55(e)—28 hours.

9. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

10. Abstract: Proposed amendments to 10 CFR Part 21 and § 50.55(e) rules will clarify the criteria and procedures for reporting of safety defects by licensees and nonlicensees. The proposed revised criteria and procedures to the existing rules would: (1) Eliminate duplicate evaluation and reporting, (2) establish a uniform threshold for defects that need

to be reported, (3) establish a uniform content for safety defect reporting, (4) extend the time limit for submittal of written Part 21 reports following the initial notification, and (5) establish a time limit for transmittal of information to end users when evaluation is not possible.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW, Washington, DC.

Comments and questions should be directed to the OMB reviewer, Nicolas B. Garcia, (202) 395-3084.

NRC Clearance Officer is Brenda J. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 17 day of October, 1988.

For the Nuclear Regulatory Commission.
William G. McDonald,

Director, Office of Administration and Resources Management.

[FR Doc. 88-26201 Filed 11-10-88; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-315 and 50-316]

Indiana Michigan Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-58 and DPR-74 issued to Indiana Michigan Power Company (the licensee) for operation of the Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, located at the licensee's site in Berrien County, Michigan.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the provisions in the Technical Specifications (TSs) and License Conditions relating to fuel enrichment.

The proposed action is in accordance with the licensee's application dated August 19, 1988.

The Need for the Proposed Action

The proposed amendment is needed so that the licensee can use higher enrichment fuel and provides the flexibility of extending the fuel irradiation and permitting operation of longer fuel cycles.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed amendment. The proposed revisions would permit use of fuel enriched with Uranium 235 in

excess of 4 weight percent and up to 4.23 weight percent, and the license would expect the fuel to be irradiated to levels above 33 gigawatt days per metric ton (GWD/MT) but not to exceed 50 GWD/MT. The safety considerations associated with reactor operation with higher enrichment and extended irradiation have been evaluated by the Commission's staff. The staff has concluded that such changes would not adversely affect plant safety. The proposed changes have no adverse effect on the probability of any accident. The increase burnup may slightly change the mix of fission products that might be released in the event of a serious accident but such small changes would not significantly affect the consequences of serious accidents. No changes are being made in the types or amounts of any radiological effluents that may be released offsite. There is no significant increase in the allowable individual or cumulative occupational radiation exposure.

With regard to potential nonradiological impacts of reactor operation with higher enrichment and extended irradiation, the proposed changes involve systems located within the restricted area, as defined 10 CFR Part 20. They do not affect nonradiological plant effluents and have no other environmental impact.

The environmental impacts of transportation resulting from the use of higher enrichment fuel and extended irradiation are discussed in the Commission's assessment entitled, "NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel Enrichment and Irradiation," dated July 7, 1988 (53 FR 30355). As indicated therein, the environmental cost contribution of the proposed increase in the fuel enrichment and irradiation limits are either unchanged or may in fact be reduced from those summarized in Table S-4 as set forth in 10 CFR 51.52(c).

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the *Federal Register* on October 11, 1988 (53 FR 39679). No request for hearing or petition for leave to intervene was filed following this notice.

Therefore, the Commission concludes that there are no significant radiological or nonradiological environmental impacts associated with the proposed amendments.

Alternative to the Proposed Action

Since the Commission concluded that

there are no significant environmental effects that would result from the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendments. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of the Donald C. Cook Nuclear Plant, Units 1 and 2, dated August 1973.

Agencies and Person Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Findings of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendments.

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 amendments dated August 19, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Maude Preston Palenski Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland, this 8th day of November 1988.

For the Nuclear Regulatory Commission,

Theodore R. Quay,

*Acting Director, Project Directorate III-1,
Division of Reactor Projects—III, IV, V &
Special Projects.*

[FR Doc. 88-26202 Filed 11-10-88; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques

used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, RS 802-5 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 3 to Regulatory Guide 1.9, "Selection, Design, Qualification, Testing, and Reliability of Diesel Generator Units Used as Onsite Electric Power Systems at Nuclear Power Plants." This guide has been prepared for the resolution of Generic Safety Issue B-56, "Diesel Generator Reliability."

Section 50.63 of 10 CFR Part 50 requires that light-water-cooled nuclear power plants be capable of withstanding a total loss of alternating current (ac) electric power (called station blackout) for a specified duration and maintaining reactor core cooling during that period. Regulatory Guide 1.155, "Station Blackout," provides guidance for assessing plant blackout coping capability and further identifies a need for a diesel generator reliability program designed to maintain and monitor reliability levels for assurance that the selected plant emergency diesel generator reliability levels are being achieved.

The staff has previously addressed diesel generator design, reliability, and operational aspects by using IEEE Std 387-1984, Revision 2 of Regulatory Guide 1.9, Regulatory Guide 1.108 (which is being withdrawn), and Generic Letter 84-15. The purpose of this Revision 3 to Regulatory Guide 1.9 is to integrate into a single regulatory guide the guidance previously dispersed in these multiple documents. This regulatory guide will be a principal reference in the NRC staff's resolution of Generic Safety Issue B-56.

Comments are particularly solicited on the following sections of this regulatory guide:

1. Regulatory Position 10, which deals with preoperational and scheduled testing of the diesel generator, with specific attention being directed to Section 10.2.2 dealing with accelerated testing and Section 10.2.4.6 dealing with 24-hour tests.

2. Regulatory Position 16, which deals with recordkeeping and reporting criteria.

3. Regulatory Position 18, which is guidance for a diesel generator reliability program.

This draft guide is being issued to involve the public in the early stages of

the development of a regulatory position in this area. It has not received complete staff review and does not represent an official NRC staff position. The regulatory and backfit analyses for the station blackout rule included analysis of the diesel generator reliability program, which is the subject of this guide. The regulatory analysis is documented in NUREG-1109. A backfit analysis was published with the station blackout rule in the **Federal Register** June 21, 1988 (53 FR 23203). A summary of these analyses is included in the Backfit Analysis for Regulatory Guide 1.9, Revision 3.

Written comments may be submitted to the 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. Comments may also be delivered to NRC at the Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., (Lower Level), Washington, DC. Written comments are requested by January 13, 1989.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Information Support Services. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

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

Dated at Rockville, Maryland, this 4th day of November 1988.

For the Nuclear Regulatory Commission.

R. Wayne Houston,

*Director, Division of Safety Issue Resolution,
Office of Nuclear Regulatory Research.*

[FR Doc. 88-26204 Filed 11-10-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumers Power Co. (Palisades Plant); Exemption

I

The Consumers Power Company (the licensee) is the holder of Provisional Operating License No. DPR-20, which authorizes operation of the Palisades Plant (Palisades) at a steady-state power level not in excess of 2530 megawatts thermal. The plant is a pressurized water reactor located at the licensee's site in Van Buren County, Michigan. The license provides, among other things, that Palisades is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

The Code of Federal Regulations, 10 CFR 50.54(o), specifies that primary reactor containments for water-cooled power reactors shall comply with Appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors." Paragraph III.A.3 of Appendix J incorporates by reference the American National Standard ANSI N45.4-1972, "Leakage Rate Testing of Containment Structures for Nuclear Reactors." This standard requires that containment leakage rate calculations for containment integrated leakage rate test (CILRTS) be performed using either the Point-to-Point method or Total Time method.

Further advances in leakage rate testing technology have provided improved test methods, including a newer method of evaluating test data called the Mass Point method. This Mass Point method was incorporated in a newer standard, ANSI/ANS-56.8-1981, "Containment System Leakage Testing Requirements" (revised 1987) and in fact has been accepted by the Commission's staff as an improved alternative method of calculating containment leakage rates. However, a strict interpretation of the specific wording of Appendix J, III.A.3, by referencing only the older ANSI standard, precludes use of the newer improved method, unless the licensees who wish to use this method receive an exemption from the Appendix J requirement of conforming to this provision of ANSI N45.4-1972.

III

By letter dated September 9, 1988, as supplemented by letter dated September 16, 1988, the licensee requested an exemption from 10 CFR Part 50, Appendix J, Paragraph III.A.3, which

requires that all CILRTs be performed in accordance with ANSI N45.4-1972. ANSI N45.4-1972 requires that leakage rate calculations be performed using either the Total Time method or the Point-to-Point method.

The licensee indicated that since the issuance of ANSI N45.4-1972, a more accurate method of determining containment leakage rates, the Mass Point method, has been developed as described in ANSI/ANS-56.8. Therefore, the licensee has requested an exemption to allow the use of the Mass Point method for calculating containment leakage rates.

It has been recognized by the professional community that the Mass Point method is superior to the Point-to-Point and Total Time methods which are referenced in ANSI N45.4-1972 and endorsed by the present regulations. The Mass Point method calculates the air mass at a series of points in time, and plots it against time. A linear regression line is plotted through the mass-time points using a least square fit. The slope of this line is divided by the intercept of this line, and the result is multiplied by an appropriate constant to obtain the calculated leakage rate.

The superiority of the Mass Point method becomes apparent when it is compared with the two other methods. In the Total Time method, a series of leakage rates are calculated on the basis of containment air mass differences between an initial data point and each individual data point thereafter, and an average of these leakage rates is then determined. If for any reason (e.g., instrument error, lack of temperature equilibrium, ingassing, or outgassing) the initial data point is not accurate, the results of the test will be affected. In the Point-to-Point method, the leak rates are based on the mass difference between each pair of consecutive data points, and these leakage rates are then averaged to yield a single leakage rate estimate. Mathematically, this can be shown to be the difference between the air mass at the beginning of the test and the air mass at the end of the test expressed as a percentage of the containment air mass. It follows from the above that the Point-to-Point method ignores any mass readings taken during the test and thus the leakage rate is calculated on the basis of the difference in mass between two measurements taken at the beginning and at the end of the test, which are 24 hours apart.

On February 29, 1988 (53 FR 5985), the Commission published a proposed amendment to Appendix J to explicitly permit the use of the Mass Point method, subject to certain conditions that have

been accepted by the Commission's staff since approximately 1976, as well as to permit the use of the prior methods referenced in ANSI N45.4-1972.

In addition to the method of calculation, consideration of the length of the test should also be included in the overall program. In accordance with section 7.6 of ANSI N45.4-1972, a test duration of less than 24 hours is only allowed if approved by the Commission, and the only currently approved methodology for such a test is contained in Bechtel Topical Report BN-TOP-1, Revision 1, "Testing Criteria for Integrated Leakage Rate Testing of Primary Containment Structures for Nuclear Power Plants," dated November 1, 1972. This approach only allows use of the Total Time method. Therefore, the Commission conditions the exemption to require a minimum test duration of 24 hours when the Mass Point method is used. By letter dated September 16, 1988, the licensee confirmed that a minimum test duration of 24 hours will be utilized when the Mass Point method is used.

In the September 9, 1988 letter, the licensee also submitted information to identify the special circumstances for granting this exemption for Palisades pursuant to 10 CFR 50.12. The purpose of Appendix J to 10 CFR Part 50 is to assure that containment leak-tight integrity can be verified periodically throughout the service lifetime in order to maintain containment leakage rate within the limit specified in the facility Technical Specifications. The underlying purpose of the rule, in specifying particular methods for calculating leakage rates, is to assure that accurate and conservative methods are used to assess the results of containment leakage rate tests. The Commission's staff has determined that the Mass Point method is an acceptable method for calculating containment leakage rates and satisfies the purpose of the rule.

Based on the above discussion, the licensee's proposed exemption from paragraph III.A.3 of Appendix J to allow use of the Mass Point method as requested in the submittal dated September 9, 1988, as revised by letter dated September 16, 1988, is acceptable, until such provision of Appendix J is modified. Thereafter, the licensee shall comply with the provisions of such rule. The exemption applies only to the method of calculating leakage rates (by use of the Mass point method) and not to any other aspects of the tests.

IV

Accordingly, the Commission has determined pursuant to 10 CFR 50.12(a)(1), that this exemption is authorized by law, will not present an

undue risk to the public health and safety, and is consistent with the common defense and security. The Commission has further determined that special circumstances, as set forth in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption, namely that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Accordingly, the Commission hereby grants an exemption as described in section III above from Paragraph III.A.3 of Appendix J to the extent that the Mass Point method may be used for containment leakage rate calculations providing it is used with a minimum test duration of 24 hours. The exemption is granted until such provision of Appendix J is modified. Thereafter, the licensee shall comply with the provisions of such rule. The exemption applies only to the method of calculating leakage rate (using the Mass Point method) and not to any other aspects of the tests.

Pursuant to 10 CFR 51.32, the Commission has determined that granting of this exemption will not have a significant effect on the quality of the human environment (November 3, 1988, 53 FR 44246).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Gary M. Holahan,

Acting Director, Division of Reactor Projects III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

Dated at Rockville, Maryland, this 3rd day of November 1988.

[FR Doc. 88-26205 Filed 11-10-88; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-26257; File No. SR-CBOE-88-09; Amdt. 1]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Value of Index Participations

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 November 1, 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, 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 Exchange proposes to amend the following chapter 25 rules relating to value of index participations.

(Note: Italics indicate additions; brackets indicate deletions.)

CHAPTER XXV

Value of Index Participations

Introduction

The rules in this Chapter are applicable only to value of index participations. The rules in Chapters I through XIX are also applicable to the value of index participations provided for in this Chapter. In some cases rules in Chapter I through XIX are replaced or are supplemented by rules in this Chapter.

Definitions

Rule 25.1.

Value of Index Participation

(a) No change in text.

Cash-out Time

(b) The term "cash-out time" means the point in time [each quarter of the year] *semi-annually* when (i) a purchaser of a VIP may obtain the [aggregate] closing value or (ii) a seller of a VIP may pay the [aggregate] closing value [plus the excise fee.] upon exercise of the cash-out privilege. The cash-out time [for each quarter] will be determined and made public by the Exchange before the beginning of [the quarter.] *each such semi-annual period.*

[Excise Fee]

(c) The term "exercise fee" is the amount, representing one percent (1%) of the aggregate closing value, that the exercising seller must pay to the assigned purchaser, in addition to the aggregate closing value, upon exercise of the cash-out privilege.]

Purchaser

([d]) *c* The term "purchaser" or "long" means the holder of a VIP contract under which the holder has the right, in accordance with the terms and provisions of the VIP, to sell the contract to the Clearing Corporation and obtain the [aggregate] closing value, and the obligation to receive the [aggregate] closing value [plus the exercise fee] if assigned at the cash-out time. The deadline for exercising the cash-out privilege will be determined and made

public by the Exchange before the beginning of [the quarter] *each such semi-annual period.*

Seller

([e]) *d* The term "seller" or "short" means the seller of a VIP contract under which the seller has the right, in accordance with the terms and provisions of the VIP, to purchase the contract from the Clearing Corporation and pay the [aggregate] closing value, [plus the exercise fee] and the obligation to deliver the closing value if assigned at the cash-out time. *The deadline for exercising the cash-out privilege will be determined and made public by the Exchange before the beginning of each such semi-annual period.*

Underlying Security

([f]) *e* No change in text.

VIP Multiplier

([g]) *f* No change in text.

Current and Closing Value

([h]) *g* No change in text.

VIP Closing Value

([i]) *h* No change in text.

Reporting Authority

([j]) *i* No change in text.

Bids and Offers

Rule 25.8 All bids and offers made on the trading floor for VIPs shall be expressed in terms of *fractions of 1/8 of a point* [dollars and decimals] for one VIP. The unit of trading shall be 100 VIPs unless otherwise designated by the Exchange.

Exercise of Cash-Out Privilege

Rule 25.10(a) Notice of exercise of the VIP cash-out privilege must be provided on or before a time specified and made public by the Exchange and must be in accordance with the Rules of The Options Clearing Corporation. Specific exercise cut-off times will also be delineated for Exchange members [organizations]. An exercise notice may be tendered to The Options Clearing Corporation only by the clearing member in whose account with The Options Clearing Corporation the VIP is carried. Members and member organizations, to the extent that they do not conflict with the rules and policies of the Exchange and The Options Clearing Corporation, shall establish fixed procedures as to the latest hour at which they will accept exercise notices from their customers.

(b) The term "exercise instruction," with respect to a customer or member, means the notice given to a clearing

member organization to exercise an VIP. All such exercise instructions must be time stamped at the time they are received [prepared] by the [receiving] clearing member organization. *In the case of a members exercise instruction, it should also be time stamped when the decision to exercise is made.*

(c) Notwithstanding the foregoing, member organizations may receive exercise instructions after the exercise cut-off time but prior to the cash-out time (1) in order to remedy mistakes made in good faith, (ii) to take appropriate action as the result of a failure to reconcile unmatched Exchange VIP transactions, or (iii) where exceptional circumstances relating to a customer's ability to communicate exercise instructions to the member organization (or the member organization's ability to receive exercise instructions) prior to such time warrant such action.

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 and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The proposed rule changes address two specific areas where the Exchange has determined that modifications to the product are required. The first involves the deletion of the proposed short exercise fee. The Exchange has decided that the imposition of such a fee could act as a deterrent to the exercise by such sort holders. The second area relates to when the cash-out periods should occur. The originally proposed quarterly cash outs have been modified such that they occur semi-annually. The change to the semi-annual cash out reflects the Exchange's interest in accommodating investors who may use the product to balance investment planning related to such products as CD's while providing them cash-out privileges for unforeseen circumstances.

The final proposed change is a correction to the original filing. The VIPs shall trade in fractions of 1/8 of a point and not in decimals. The underlying product trades in decimals.

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act in that these contracts will serve the public investors by enabling them to invest in or hedge a basket of stocks reflecting the market in one transaction. The Exchange believe that a properly structured index value contract will benefit public customers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

This 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of 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, N.W., Washington, D.C. 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 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., 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 December 5, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

Dated: November 7, 1988.

[FR Doc. 88-26238 Filed 11-10-88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-26259; File No. SR-GSCC-88-2]

**Self-Regulatory Organizations;
Government Securities Clearing Corp.;
Filing and Immediate Effectiveness of
Proposed Rule Change**

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 October 19, 1988, GSCC 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 GSCC. 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 Text of the proposed rule change is attached as Exhibit "A".

**II. Self-Regulatory Organization's
Statement of the Purpose of, and
Statutory Basis for, the Proposed Rule
Change**

In its filing with the Commission, GSCC 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. GSCC has prepared summaries, set forth in Section (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**

(a) The proposed rule change is to establish the fee structure for GSCC's Trade Comparison Services.

(b) The proposed rule change provides for the equitable allocation of reasonable fees among its participants and is, therefore, consistent with the requirements of the Securities Exchange Act of 1934, as amended (the "Act") and the rules and regulations thereunder

applicable to a self-regulatory organization.

**B. Self-Regulatory Organization's
Statement on Burden on Competition**

GSCC does not perceive that the proposed rule change will have an impact or impose a burden on competition.

**C. Self-Regulatory Organization's
Statement on the Proposed Rule Change
Received from Members, Participants,
or Others**

Comments on the proposed rule change have not been solicited or received. GSCC will notify the Securities and Exchange Commission of any written comments received by GSCC.

**III. Date of Effectiveness of the
Proposed Rule Change and Timing for
Commission Action**

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934. At any time within sixty 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 Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making a written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to File No. SR-GSCC-88-2 and should be submitted by December 5, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

Dated: November 7, 1988.

Exhibit A

I. Trade Comparison Fees

A. For entry of one side of a U.S. Treasury Bond, Note, Bill, STRIP or U.S. Government Agency (excluding Mortgage-Backed Securities) trade for comparison processing and production of reports the charges are as follows:

For Computer to Computer input and, Computer to Computer output.....	\$.50 per side*
Magnetic Tape output.....	\$ 1.00 per side*
Paper output.....	\$ 1.50 per side*
for Magnetic Tape input and, Computer to Computer output.....	\$ 1.00 per side*
Magnetic Tape output.....	\$ 1.00 per side*
Paper output.....	\$ 1.50 per side*

* All trades for a given Participant will be billed at the highest rate applicable to that Participant during each billing period.

[FR Doc. 88-26239 Filed 11-10-88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-26254; File No. SR-MCC-88-11]

**Self-Regulatory Organizations;
Midwest Clearing Corp.; Filing and
Immediate Effectiveness of Proposed
Rule Change**

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 October 28, 1988, the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below in 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 on the Terms of Substance of
the Proposed Rule Change**

Below is MCC's revised fee schedule concerning some services involving physical processing or special handling of securities.

Service	Current fee	Proposed fee
SSM Delivery Approval Call.	\$2.00/call.....	\$2.00/item.
SSM Delivery Reject		

Service	Current fee	Proposed fee
Rec. Part.	0.00.....	5.00/delivery.
Del. Part.	0.00.....	5.00/delivery.
CHRS	10.00/delivery	15.00/delivery.
NYRP	10.00/delivery	15.00/delivery.
CDCS	10.00/delivery	15.00/delivery for first 25 deliveries, 10.00/delivery thereafter.
CDCS Reclaims.	6.00/item	10.00/reclaim.
Bearer Surcharge (CDCS & SSM).	0.00.....	7.00/item.
Trade for Trade Reclaim.	9.00/reclaim	10.00/reclaim.
Underwriting Pick Up.	17.50.....	22.50.

II. Self-Regulatory Organization's Statement on 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, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

The MCC Revised Fee Schedule more accurately reflects the cost of providing various services to MCC's Participants. The Revised Fee Schedule is consistent with Section 17A of the Securities Exchange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees and other charges among MCC Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Clearing Corporation does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were solicited and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

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 MCC. All submissions should refer to SR-MCC-88-11 and should be submitted by December 5, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 4, 1988.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-26241 Filed 11-10-88; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 34-26260; File No. SR-MSTC-88-6]

Self Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Co. Relating to National Institutional Delivery System ("NIDS"); Filing and Immediate Effectiveness

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 October 26, 1988, the Midwest Securities Trust Company 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 on the Terms of Substance of the Proposed Rule Change

MSTC has developed proposed revised procedures regarding Midwest Securities Trust Company's ("MSTC's") National Institutional Delivery System ("NIDS"). The procedures contain several enhancements to NIDS formats and reports, including those relating to input and output processing and reporting.

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, 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 NIDS system improvements are the result of a four-year development process. Initial planning began in December, 1984, when representatives of brokerage firms, banks, and depositories met to discuss projected improvements. As a result of these discussions, several enhancements were made in both NIDS input and output processing.

The NIDS system improvements enhance both manual and terminal input and features requirements. Trade input forms have been enhanced to allow Participants to enter additional information on the form. Terminal input has been enlarged and will be capable of processing non-U.S., as well as U.S., currencies. Fields for standard security descriptions have been increased from 55 to 78 characters.

Finally, all of the NIDS reports have been enhanced. These include the NIDS Trade Error Report (includes written messages for the first two errors), Eligible Trade Report (now shows the trade date, in addition to settlement date, of each trade) and the Ineligible Trade Report (NIDS Participants will now be able to confirm or affirm trades for a larger variety of financial instruments, including fractional shares). NIDS sign-up procedures, time frames for entering information into the system, and use of MCC/MSTC symbols for trade input remain the same.

The proposed rule changes are consistent with Section 17A of the Securities Exchange Act of 1934, as amended (the "Act"), in that they facilitate the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on burden on Competition

MSTC does not believe that any burden will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The proposed rule changes are the result of discussions and planning by representatives of brokerage firms, banks and depositories. During the enhancement process, feedback and input from the various participants in the securities industry were generated and used. MSTC has received input and suggestions from its own Participants during this development process and has kept them informed of developments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

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 & 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-referenced self-regulatory organization. All submissions should refer File No. SR-MSTC-88-06 and should be submitted by December 5, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

Dated: November 7, 1988.

[FR Doc. 88-26240 Filed 11-10-88; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 34-26258; File No. SR-NASD-88-49]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Excused Withdrawal of Quotations From the NASDAQ System Based on Vacation.

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 October 31, 1988 the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is herewith filing a proposed rule change to amend paragraph (b), Part VI, Section 7, Schedule D to the NASD By-Laws on the Withdrawal of Quotations from the National Association of Securities Dealers Automated Quotations ("NASDAQ") system.

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 NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On June 9, 1988 the Commission approved amendments to Part VI, Schedule D to the NASD By-Laws setting forth requirements applicable to NASDAQ market makers.¹ In pertinent part, the rule amendments deleted vacations from the list of reasons for which NASDAQ market makers would be permitted to withdraw their quotations from the NASDAQ system. Since the rule amendments became effective, a number of market makers have written to the NASD requesting that Schedule D be amended to permit excused withdrawals for vacations. The nine letters received by the Association are from smaller firms that believe the newly amended Schedule D provisions on excused withdrawals place them at a competitive disadvantage to larger firms that are able to provide adequate coverage for traders who are on vacation. After considering the market makers' requests, the NASD has concluded that firms with a limited number of personnel are most affected by the existing excused withdrawal provisions under Schedule D because these firms are unable to assign stocks to other experienced personnel during a trader's absence. Thus, the NASD has adopted the proposed rule change to permit market makers with three or fewer NASDAQ Level 3 terminals to obtain excused withdrawals from NASDAQ for vacation, provided that the request for withdrawal is submitted to the NASD in writing 20 business days prior to the effective date of withdrawal from the NASDAQ system, and the request includes a list of the securities for which withdrawal is requested. Therefore, the proposed rule change is

¹ File No. SR-NASD-88-1, Securities Exchange Act Release No. 34-25791.

consistent with the provisions of Section 15A(b)(6) under the Act as it is designed to remove impediments to the maintenance of a free and open market and a national market system, and does not permit unfair discrimination for which withdrawal is requested.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the Exchange Act of 1934, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited. As described above, however, the NASD has received nine letters from firms objecting to the provisions of Schedule D as amended in June 1988, which eliminate vacation as a reason for granting an excused withdrawal from the NASDAQ system. The letters are listed and attached as Exhibit 2.

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 Room.

Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-88-49 and should be submitted by December 5, 1988.

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: November 7, 1988.

[FR Doc. 88-26242 Filed 11-10-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26262; File No. SR-PHILADEP-88-01]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Filing and Immediate Effectiveness of Proposed Rule Change Relating to Revised Fee Schedule

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 October 6, 1988, the Philadelphia Depository Trust Company 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

(a) The Philadelphia Depository Trust Company (PHILADEP) proposes as a rule change revisions to certain fees charged to participants for services provided by the Corporation. The charges are proposed to take effect October 1, 1988.

Attached hereto as Exhibit A is a schedule indicating the changes in the fees.

(b) PHILADEP does not expect that the proposed rule change will have any direct effect or significant indirect effect on any of its other rules.

(c) Not applicable.

II. Self-Regulatory Organization's Statement Regarding 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. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements:

(A) Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

PHILADEP's last fee change occurred nearly two and one half years ago. Over this period, the cost of manually intensive services has risen and the post October crash environment has been one of reduced trading activity which has negatively impacted the revenues of all of the nation's clearing organizations, including PHILADEP. Accordingly, in order to put current revenues more in line with current costs, PHILADEP submits as a rule change the fee changes detailed in *Exhibit A*. In summary, only those fees associated with services which are manually intensive and are not benefited by computer automation efficiencies have been increased. A careful review of these revised service fees compared to service fees charged by the competition, discloses that PHILADEP continues to remain significantly less expensive.

Additionally, in order to further its competitive edge, PHILADEP has increased its volume discounts and has offered a lower bundled service rate in connection with its customer name mailing service. See service charge revisions #3, #15, and #19 of *Exhibit A*.

The proposed rule change is consistent with Section 17A(b)(3)(D) of the Exchange Act in providing for equitable allocations of reasonable dues, fees, and other charges among participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PHILADEP does not perceive any burdens on competition as a result of the proposed rule change, which is intended to align more closely the charge for a particular service with the cost of producing it.

(C) Self-Regulatory Organizations Statement on Comments the Proposed Rule Change Received from Members, Participants, or Others

A forthcoming SCCP/PHILADEP Member Bulletin will advise members of officials to whom they may direct questions upon receipt of the new fee schedule.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934. At any time within sixty 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 Securities Exchange Act of 1934.

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-referenced self-regulatory organization. All submissions should refer to File No. SR-PHILADEP-88-01 and should be submitted by December 5, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 7, 1988.

Jonathan G. Katz,
Secretary.

EXHIBIT A.—SR-PHILADEP-88-01—PHILADEP SCHEDULE OF CHARGES

[New Material italicized; deleted material bracketed; asterisks indicate no changes in material]

Service	Charge.
1. Account Charges.....	***
2. Custody Fee.....	***
3. Deposit Fee.....	[\$0.90] \$1.30 per deposit.

EXHIBIT A.—SR-PHILADEP-88-01—PHILADEP SCHEDULE OF CHARGES—Continued

[New Material italicized; deleted material bracketed; asterisks indicate no changes in material]

Service	Charge.
4. Legal Deposits.....	\$8.50 processing fee, plus regular deposit fee for participants with less than 3,000 deposits per month <i>\$5.50 processing fee, plus regular deposit fee for participants with 3,000 or more deposits per month.</i>
5. Withdrawals:	
a. By transfer.....	[\$1.95] <i>\$2.30</i> per manual transfer <i>\$1.35</i> per automated tape transfer.
b. By certificate.....	[\$5.00] <i>\$8.00</i> per withdrawal same day or next day.
6. Accommodation Transfers, Ironclads.	***
7. MDO Movements.....	\$0.75 per movement. <i>Automatic inter-depository deliveries:</i> <i>\$0.50 per item (daily deliveries).</i> <i>\$0.55 per item (weekly deliveries).</i> <i>\$0.60 per item (bi-weekly deliveries).</i> <i>\$0.65 per item (monthly deliveries).</i>
8. CNS/PHILADEP Movements.	***
9. Pledge Fees.....	***
10. Dividend and Interest Payments.	[\$1.20] <i>\$1.40</i> per cash credit. <i>\$6.00</i> per stock dividend.
11. Reject Fees.....	***
12. Research Fees.....	***
13. Computer Transmission Tapes.	***
14. Eligibility Book.....	***
15. Customer Name Mailing.	\$0.65 per envelope plus appropriate transfer withdrawal charge fees; fee(s) includes stationary and insurance but not postage. <i>\$0.75 per envelope for securities delivered inter-depository plus appropriate transfer withdrawal charge fees; fee includes stationary, insurance and MDO charge but not postage.</i>
16. Stock Loan Program.	***
17. Reorganization Fees:	
a. Mandatory Exchanges, Cash & Stock Mergers, and Reverse Splits.	[\$15.00] <i>\$20.00</i> per position.
b. Voluntary Tender Offers.	[\$15.00] <i>\$25.00</i> per instruction received before cutoff. [\$25.00] <i>\$50.00</i> per instruction received after cutoff, with authorization.
c. Voluntary Conversions.	[\$15.00] <i>\$25.00</i> per instruction.
d. Redemptions: Stocks, Corporate Bonds, Registered Municipal Bonds, etc..	[\$15.00] <i>\$22.00</i> per position.

EXHIBIT A.—SR-PHILADEP-88-01—PHILADEP SCHEDULE OF CHARGES—Continued

[New Material italicized; deleted material bracketed; asterisks indicate no changes in material]

Service	Charge.
18. National Institutional Delivery System (NIDS).	***
19. PHILADEP Discount.	5% off PHILADEP charges for participants with more than 10,000 but less than 15,000 trades per month. An additional 5% off PHILADEP charges for participants with 15,000 but less than 30,000 trades per month. An additional 5% off PHILADEP charges for participants with 30,000 but less than 45,000 [or more] trades per month. An additional 5% off PHILADEP charges for participants with 45,000 or more trades per month ***

[FR Doc. 88-26243 Filed 11-10-88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16625; 812-7138]

Midwest Income Trust et al.; Notice of Application

November 7, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Midwest Income Trust, Midwest Group Tax Free Trust and Financial Independent Trust.

Relevant 1940 Act Sections: Exemption requested under Section 6(e) from the provisions of Section 32(a)(1).

Summary of Application: Applicants, on behalf of themselves and any series, class or portfolio thereof and on behalf of each open-end management investment company and any series, class or portfolio thereof which are advised now or in the future by Midwest Advisory Services, Inc. or Financial Independence Trust Advisers, Inc., and which are not required by law to hold annual meetings of shareholders, seek an order permitting each of them to file with the SEC financial statements signed or certified by an independent public accountant selected at a Board of Trustees' Meeting held within ninety days after the beginning of an Applicant's fiscal year.

Filing Date: The application was filed on September 30, 1988, and amended on October 31, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 1, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyer, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, c/o John F. Splain, General Counsel, Midwest Group of Funds, 700 Dixie Terminal Building, Cincinnati, Ohio 45202.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney, at (202) 272-3026 or Matthew A. Chambers, Assistant Director, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (310) 258-4300).

Applicants' Representations:

1. Each Applicant is a registered, open-end, management investment company organized as a business trust under the laws of the Commonwealth of Massachusetts. Each Applicant is advised by Midwest Advisory Services, Inc. or Financial Independent Trust Advisers, Inc.

2. Each of the Applicants is governed by a Board of Trustees of which at least 40 percent of the members are not "interested persons" within the meaning of section 2(a)(19) of the 1940 Act ("Disinterested Trustee"). All Applicants hold regularly scheduled board meetings about four times each year.

3. The Applicants are not required by state law to hold annual shareholders' meetings. Therefore, the selection of an independent public accountant is currently made by the Disinterested Trustees of each Applicant at a

regularly scheduled board meeting held within thirty days before or after the beginning of Applicant's fiscal year.

4. The Applicants have various fiscal years. An Applicant will typically hold a board meeting within 30 days before its fiscal year-end for the primary purpose of selecting the Applicant's independent public accountant. With regard to two of the Applicants, such selection is based upon a recommendation from an audit committee which will meet immediately prior to the board meeting at which the selection of accountants is to take place. Each board will then meet again after substantial completion of the audit, usually 40-60 days following fiscal year-end to review and approve the results of the audit and other related matters.

5. Each Applicant currently employs the same firm as independent public accountants. Each Applicant proposes to select an independent public accountant at a regularly scheduled Board of Trustees meeting, held within 90 days after the beginning of its fiscal year.

Applicant's Legal Conclusions:

1. The 30-day time frame prescribed by Section 32(a)(1) of the 1940 Act is not flexible enough to allow for a logical and efficient approach for selecting an independent public accountant. Changing the required time frame to within 90 days after the beginning of the fiscal year would permit the Applicants to select accountants following an annual audit. It is at this time that the Boards of Trustees are best able to evaluate the performance and services of the accountants.

2. The 30-day window for selection of accountants is obscure especially since, if a meeting of shareholders is held, the selection of accountants at any prior thereto is authorized.

3. Expansion of the window from 30 days to within 90 days after the beginning of each Applicant's fiscal year will ensure that the selection of an independent public accountant is considered on a more systematic and logical basis while continuing to serve the best interests of shareholders. The review procedures will provide for a detailed review of the services furnished by the independent public accountant and result in the Trustee's consideration of all information developed by an audit committee, where applicable.

4. For these reasons, the exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly

intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-26244 Filed 11-10-88; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License Number: 05/05-0098]

Doan Resources Limited Partnership; Surrender of License

Notice is hereby given that Doan Resources Limited Partnership, 4251 Plymouth Road, P.O. Box 986, Ann Arbor, Michigan 48106-0986, has surrendered its License to operate a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Doan Resources Limited Partnership was licensed by the Small Business Administration on February 25, 1974.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on October 26, 1988, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: November 7, 1988.

[FR Doc. 88-26256 Filed 11-10-88; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council; Public Meeting; Connecticut

The U.S. Small Business Administration, Region I Advisory Council, located in the geographical area of Hartford, will hold a public meeting, at 8:00 a.m. on December 5, 1988 at the Yale Inn, 900 East Main Street, Meriden, Connecticut 06450, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Henry A. Povinelli, District Director, U.S. Small Business Administration, 330

Main Street, Hartford, Connecticut, 203/240-4670.0.

Jean M. Nowak,
Director, Office of Advisory Councils.
November 6, 1988.

[FR Doc. 88-26257 Filed 11-10-88; 8:45 am]
BILLING CODE 8025-01-M

Region VII Advisory Council; Public Meeting; Missouri

The U.S. Small Business Administration Region VII Advisory Council, located in the geographical area of Kansas City, will hold a public meeting at 10:00 a.m., Thursday, December 1, 1988, at the United Missouri Bank of Kansas City, N.A., First Floor Auditorium 1010 Grand Avenue, Kansas City, Missouri 64106, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Glenn Davis, District Director, U.S. Small Business Administration, 1103 Grand Avenue, 6th Floor, Kansas City, MO 64106—(816) 374-6760.

Jean M. Nowak,
Director, Office of Advisory Councils.
November 6, 1988.

[FR Doc. 88-26259 Filed 11-10-88; 8:45 am]
BILLING CODE 8025-01-M

Region II Advisory Council; Public Meeting; New Jersey

The U.S. Small Business Administration, Region II Advisory Council, located in the geographical area of Newark, New Jersey, will hold a public meeting at 9:30 a.m., on Thursday, December 15, 1988, at the Headquarters of Bellcore, Bell Communications Research, 290 West Mount Pleasant Avenue, Livingston, New Jersey to discuss such matters as may be presented by members and the staff of the U.S. Small Business Administration, or others present. For further information write or call Stanley H. Salt, District Director, U.S. Small Business Administration, 60 Park Place, Newark, New Jersey 07102, (201) 645-3580.

Jean M. Nowak,
Director, Office of Advisory Councils.
November 6, 1988.

[FR Doc. 88-26258 Filed 11-10-88; 8:45 am]
BILLING CODE 8025-01-M

Region I Advisory Council; Public Meeting; Vermont

The U.S. Small Business Administration, Region I Advisory

Council, located in the geographical area of Montpelier, will hold a public meeting at 10:00 a.m. on Wednesday, December 7, 1988, at the Brandon Inn, Brandon, Vermont, to discuss such matters as may be presented by members, staff of the Small Business Administration and others present.

For further information, write or call Ora H. Paul, District Director, U.S. Small Business Administration, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602, 802/828-4422.

Jean M. Nowak,
Director, Office of Advisory Councils.
November 6, 1988.

[FR Doc. 88-26260 Filed 11-10-88; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/1234]

Shipping Coordinating Committee; Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open meeting at 0930 on Tuesday, 29 November 1988 in Room 6332 of the Department of Transportation Building, 400 Seventh Street, SW., Washington, DC. The purpose of the meeting is:

1. To consider U.S. positions for the upcoming 5th Session of the International Maritime Organization (IMO)/United Nations Conference on Trade and Development (UNCTAD) Joint Group of Intergovernmental Experts (JIGE) on Maritime Liens and Mortgages scheduled to meet in Geneva from 12-20 December 1988;

2. To begin development of U.S. positions for the IMO Diplomatic Conference on the Draft Salvage Convention scheduled to meet in London from 17-28 April 1989; and

3. To review the negotiations concerning the question of liability and compensation related to the maritime carriage of hazardous and noxious substances (HNS) which took place at the recent 60th Session (10-14 October 1988) of the IMO Legal Committee, and to discuss preparations for further negotiations on this topic at the next Legal Committee session scheduled to meet in London from 25-29 September 1989.

With respect to the IMO/UNCTAD Joint Group of Intergovernmental Experts, this body has been considering possible changes in existing international conventions relating to maritime liens and mortgages and to the arrest of seagoing ships since its 1st Session in December 1986. In view of progress to date, it is expected that a

draft of a new International Convention on Maritime Liens and Mortgages will be completed at the upcoming 5th session.

In planning for the April 1989 Diplomatic Conference on the Draft Salvage Convention, the Shipping Coordinating Committee will conduct one, and possibly two, special meetings on this subject early next year. In preparing for the Conference, four draft convention issues appear to be particularly important from the U.S. perspective and will be discussed extensively at the SHC public meetings:

1. The system established in Articles 10 and 11 ("Criteria for Assessing the Reward" and "Special Compensation") for sharing the cost of a new environmental incentive for salvors between shipowners and cargo interests;

2. The jurisdiction provisions in Article 21;

3. The present scope of the provision for exception by reservation in Article 24, the effect of which would be to require application of the convention to many offshore hydrocarbon exploration and production facilities; and

4. The absence of any exclusion from the convention for government-owned, non-commercial cargoes carried in other than government-owned vessels.

Finally, with respect to HNS liability and compensation, while no decision has yet been taken regarding which alternative approach should serve as the model for a proposed new international regime, the recent negotiations featured a number of significant developments and the introduction of several additional approaches. There is likely to be considerable interest at the next Legal Committee session in October 1989 in coming to a decision on the fundamental question of which approach to adopt, and it is particularly important to a wide range of domestic interests that all of the existing HNS options be carefully studied and compared in order to develop appropriate U.S. positions.

Members of the public are invited to attend the 29 November 1988 Shipping Coordinating Committee meeting, up to the seating capacity of the room.

For further information pertaining to the issues to be discussed at the Shipping Coordinating Committee meeting, contact either Captain Frederick F. Burgess, Jr. or Lieutenant Commander Frederick M. Rosa, Jr., U.S. Coast Guard (G-LMI), 2100 Second Street SW., Washington, DC 20593, telephone (202) 267-1527, telefax (202) 267-4165.

Date: October 31, 1988.

Peter R. Keller,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 88-28174 Filed 11-10-88; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended November 4, 1988

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45904

Date Filed: November 2, 1988.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 30, 1988.

Description: Application of Tem Enterprises, Inc. d/b/a Casino Express, pursuant to Section 401(d)(3) of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity to engage in charter interstate and overseas air transportation of persons and property.

Docket No. 45905

Date Filed: November 2, 1988.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 30, 1988.

Description: Application of Tem Enterprises, Inc. d/b/a Casino Express, pursuant to Section 401(d)(3) of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity to engage in charter foreign air transportation of persons and property between any point in any state of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and any point or points outside the United States, the District of Columbia or any territory or possession of the United States, on the other hand.

Docket No. 45906

Date Filed: November 2, 1988.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 30, 1988.

Description: Application of Air Guadeloupe pursuant to Section 402 of the Act and Subpart Q of the Regulations requests an amendment of its foreign air carrier permit, to operate "via intermediate points" in its San Juan service, so as to provide the flexibility allowed under Route 6 of the France/U.S. bilateral.

Docket No. 45908

Date Filed: November 2, 1988.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 30, 1988.

Description: Application of Trans Continental Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Regulations requests it be granted certificate authority to engage in interstate and overseas charter air transportation of persons and their accompanying baggage.

Docket No. 45909

Date Filed: November 2, 1988.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 30, 1988.

Description: Application of Trans Continental Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Regulations requests that its certificate for foreign charter air transportation be amended to authorize air transportation of persons and their accompanying baggage between any point in any state of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and any point outside thereof, on the other hand.

Docket No. 45910

Date Filed: November 3, 1988.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: December 1, 1988.

Description: Application of Atlanta Royal Air, Ltd., pursuant to Section 401(d)(1) of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity for an indefinite term to perform scheduled air transportation of persons, property, mail, and cargo, between any point in any state in the United States or the District of Columbia of any territory or possession of the United States and any other point in any state of the United States or the District of Columbia, or any territory or possession of the United States.

Docket No. 45914

Date Filed: November 3, 1988.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: December 1, 1988.

Description: Application of Spantax, S.A., pursuant to Section 402 of the Act and Subpart Q of the Regulations applies for renewal of its foreign air carrier permit authorizing it to engage in foreign charter air transportation of passengers, property and mail between any point or points in Spain and any points or points in the United States.

Docket No. 45915

Date Filed: November 3, 1988.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: December 1, 1988.

Description: Application of Air Micronesia, Inc. pursuant to Section 401 of the Act and Subpart Q of the Regulations requests an amendment to its certificate of public convenience and necessity for Route 170 that would add a new segment between the coterminal points Saipan, Northern Mariana Islands, Palau, Eastern Caroline Islands, Guam and a point or points in Indonesia.

Docket No. 45918

Date Filed: November 4, 1988.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: December 2, 1988.

Description: Application of Minerve, Compagnie Francaise De Transportes Aeriens, S.A., pursuant to Section 402 of the Act and Subpart Q of the Regulations, requests renewal of its foreign air carrier permit, issued by Order 83-11-27, which authorizes it to engage in charter foreign air transportation of persons and property between any point or points in France and Corsica and any point or points in the United States.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 88-26250 Filed 11-10-88; 8:45 am]

BILLING CODE 4910-62-M

Solicitation of Comments on Revisions to the Carriage of Goods by Sea Act

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice seeking comments.

SUMMARY: On October 20, 1988, the Department of Transportation held a symposium on Revisions to the Carriage of Goods by Sea Act (COGSA) to bring it in line with modern shipping practices. This meeting was attended by

approximately 80 industry and government representatives. The comments made at this meeting are now being evaluated by DOT staff.

In order to obtain as broad and representative an input as possible, we invite all interested parties to submit any pertinent comments they deem will be helpful to us in these COGSA revisions.

DATE: All comments should be received by December 31, 1988. Based on all comments received, including those made during the October 20 symposium, we plan to make a recommendation to the Secretary of Transportation on the best approach to take to resolve the issues by February 1, 1989.

ADDRESS: Submit all comments to: Office of International Transportation and Trade, P-20, Room 10300, Department of Transportation, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: John D. Coakley, Office of Assistant Secretary for Policy and International Affairs, Room 10300, Department of Transportation, Washington, DC 20590. (Telephone (202) 366-9504).

SUPPLEMENTARY INFORMATION:

We are particularly interested in receiving comments on the following issues and options:

I. COGSA Issues

1. General and U.S.-specific international trade implications of the various options listed below.
2. Ability to accommodate developments in maritime transportation and related documentation (e.g., electronic data interchange (EDI) and paperless bills of lading, intermodalism)
3. Likely changes in level and incidence of total transportation costs due to COGSA revision (including land based costs):
 - a. Short term costs;
 - b. Long term cost.
4. Uniformity of law implications.
5. Likely changes in the allocation of risk between carriers/liability insurers and shippers/cargo insurers;
 - a. As a practical business arrangement between carriers and shippers;
 - b. As a question of equity and fairness.
6. Uniqueness of ocean shipping and its attendant liability regime compared with other modes.

II. Options

1. No change to COGSA.
2. Adopt Visby and SDR Protocols.
3. Adopt Hamburg Rules.
4. Adopt Visby and SDR Protocols now and transition to Hamburg Rules

via DOT trigger formula, or some other trigger.

5. Send both instruments to Congress without a trigger.

6. Implement the proposal of the American Bar Association to adopt the Visby and SDR Protocols now and seek international agreement on additional amendments.

7. Seek domestic legislation implementing the Visby and SDR Protocols and the four ABA proposed amendments to Visby.

All comments received on these revisions as well as a transcript of the October 20, 1988 meeting will be open to public inspection in Room 10300, DOT Headquarters, 400 7th and D Street, SW., Washington, DC during normal business hours.

Dated: November 8, 1988.

Arnold Levine,

Director, Office of International Transportation and Trade, Department of Transportation.

[FR Doc. 88-26248 Filed 11-10-88; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB on November 7, 1988

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on November 7, 1988, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson, or Cordelia Shepherd, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, SW, Washington, DC 20590, telephone, (202) 366-4735, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the *Federal Register*, listing those information collection

requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on November 7, 1988.

DOT No: 3126

OMB No: 2125-0507

Administration: Federal Highway

Administration

Title: Voucher for Federal-aid

Reimbursement

Need for Information: For the Federal Highway Administration to reimburse State highway costs incurred on Federal-aid projects.

Proposed Use of Information: To assure the Federal Highway Administration that the amount of claims and terms of agreements have been certified by an authorized State official.

Frequency: On occasion

Burden Estimate: 15,174 hours

Respondents: State highway agencies

Form(s): PR-20, FHWA-1447, FHWA-1175

Average Burden Hours Per Respondent:

The average completion time for each form, PR-20, FHWA-1447, and FHWA-1175 is 1 hour.

DOT No: 3127

OMB No: 2120-0060

Administration: Federal Aviation

Administration

Title: General Aviation Activity and

Avionics Survey

Need for Information: This survey is needed to collect information of the

use and the characteristics of the general aviation aircraft.

Proposed Use of Information: The data is used by the FAA in supporting safety analysis, regulatory changes, assisting the impact of general aviation on the National Airspace System and formulating long term programs and policies.

Frequency: Annually.

Burden Estimate: Total estimated to be 3,500 hours.

Respondents: A sampling of general aviation aircraft owners and operators

Form(s): FAA Form 1800-54

Average Burden Hours Per Respondent: 12 minutes for 1989 and 1991 surveys; 9 minutes for 1990 survey.

DOT No.: 3128

OMB No.: 2130-0006

Administration: Federal Railroad Administration

Title: Railroad Signal Systems Requirements

Need for Information: To assure that signal systems are tested and maintained in safe and suitable condition to provide the safety intended by the Act.

Proposed Use of Information: To determine if a potential safety hazard exists in the signal systems.

Frequency: Recordkeeping and on occasion

Respondents: 102 Railroads

Total Estimated Burden: 480,383 Hours

Estimated Average Per Response: 2 Hours and 23 minutes

Form Number(s): FRA-F-6180.14 and FRA-F-6180.47

DOT No.: 3129

OMB No.: 2115-0013

Administration: U.S. Coast Guard

Title: Application and Permit to Handle Hazardous Materials

Need for Information: This information collection requirement is needed to ensure safe handling and transporting of explosives and other hazardous materials in port areas and onboard vessels.

Proposed Use of Information: The Coast Guard uses the information to issue a permit indicating that safe practices are being followed in the stowage and handling of designated dangerous cargo.

Frequency: On occasion

Burden Estimate: 819

Respondents: Shipping agents and terminal operators

Form(s): CG-4260

Average Burden Hours Per Respondent: 1 hour and 6 minutes per application

DOT No.: 3130

OMB No.: 2115-0505

Administration: U.S. Coast Guard

Title: Plan Approval and Records for Tank Passenger, Cargo and Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical Schools and Oceanographic Research Vessels and Electrical Engineering

Need for Information: This information collection requirement is necessary to determine if a vessel's construction, arrangement and equipment are in full compliance with applicable marine safety regulations. The plans are those normally developed by a shipyard designer or manufacturer, and are not developed solely for the Coast Guard.

Proposed Use of Information: The Coast Guard uses the information to approve the ships structure prior to building the ship.

Frequency: On occasion

Burden Estimate: 7,200 hours

Respondents: Shipbuilders, designers, owners and operators

Form(s): None

Average Burden Hours Per Respondent: 27 minutes

DOT No.: 3131

OMB No.: 2106-0030

Administration: DOT, Office of the Secretary

Title: Certificate of Insurance, Air Taxi Operator Policies of Insurance for Aircraft Bodily Injury and Property Damage Liability

Need for Information: To protect the public's right to recover losses incurred in accidents involving air taxi operators.

Proposed Use of Information: Used internally by DOT to monitor compliance with the insurance regulations applicable to air taxi operators.

Frequency: On occasion, when policies are renewed or modified

Burden Estimate: 2,400 hours

Respondents: Aviation insurance underwriters, brokers and agents

Form(s): OST Form 4521

Average Burden Hours Per Respondent: 30 minutes

DOT No.: 3132

OMB No.: New

Administration: Research and Special Programs Administration

Title: Report of Traffic and Capacity Statistics—The T-100 System

Need for Information: To check carrier fitness, to administer airport programs, as an information base for international negotiations.

Proposed Use of Information: Reports are used for international negotiations, monitoring air carrier fitness, international rates, foreign air carrier applications.

Frequency: Monthly

Burden Estimate: FY 1989—2,892 hours, FY 1990—10,512 hours

Respondents: FY 1989 foreign air carriers, FY 1990 foreign and U.S. air carriers

Form(s): T-100

Average Burden Hours Per Respondent: Foreign air carriers 1.5 hours, U.S. air carriers 10 hours

DOT No.: 3133

OMB No.: 2105-0520

Administration: DOT, Office of the Secretary

Title: Uniform Administrative Requirements for Grants and Cooperative Agreements

Need for Information: Information is needed to properly manage grant programs

Proposed Use of Information: Grant management

Frequency: Record Keeping

Burden Estimate: 2,850 grantees x 70 hours = 199,500 hours

Respondents: all grantees

Form(s): SF 269, SF 272, SF 270, SF 271, SF 424,

Average Burden Hours Per Respondent: 70 hours

DOT No.: 3134

OMB No.: 2132-0543

Administration: Urban Mass

Transportation Administration

Title: Charter Service Operations

Need for Information: UMTA requires applicants to submit a charter bus agreement that the applicant will provide charter service only if there is no willing and able operator.

Proposed Use of Information: To ensure that the UMTA Act's protections for UMTA equipment and for private operators are complied with.

Frequency: Annually (with each grant application) and trip-by-trip

Burden Estimate: 1,984 hours

Respondents: State & local government and Businesses

Form(s): None

Average Burden Hours Per Respondent: 1 hour and 12 minutes

DOT No.: 3135

OMB No.: 2132-0011

Administration: Urban Mass

Transportation Administration

Title: Environmental Assessments

Need for Information: To comply with the National Environmental Policy Act of 1969, as amended.

Proposed Use of Information: To consider environmental consequences of proposed projects and to develop mitigation measures, if necessary.

Frequency: On occasion

Burden Estimate: 3,720

Respondents: State or local governments

Forms: none

Average Burden Hours Per Respondent: 120 hours

DOT No.: 3136

OMB No.: 2115-0133

Administration: U.S. Coast Guard

Title: Passenger Vessel Reports

Need for Information: This is a recordkeeping requirement in which the Coast Guard issues a Control Verification Form which verifies that the vessel has been examined and that the applicable standards are met. This requirement is necessary for effective administration of our foreign flag vessels boarding programs. It is needed to ensure that specified foreign flag vessels meet the applicable federal and international requirements for safety and environmental protection.

Proposed Use of Information: The vessel master, agent or owner uses this requirement as evidence of Coast Guard examination and recent compliance with the requirements.

Frequency: On occasion

Burden Estimate: 10 hours

Respondents: Owners/operators of foreign flag passenger vessel

Forms: CG-4504

Average Burden Hours Per Respondent: 5 minutes

DOT No.: 3137

OMB No.: 2127-0519

Administration: National Highway Traffic Safety Administration

Title: 49 CFR 575.104, Uniform Tire Quality Grading Standards

Need for Information: To assist consumers in making informed choices when purchasing motor vehicle tires.

Proposed Use of Information: This regulation requires tire manufacturers to furnish performance information about their tires to the public. The information must be labeled on tire sidewalls, printed on paper labels that are affixed to the tires, and described in brochures.

Frequency: Other—as needed

Burden Estimate: 1,092,000 hours

Respondents: 575 manufacturers

Form(s): None

Average Burden Hours Per Respondent: $60 \times 0.006956 = 0.42$ minutes

DOT No.: 3138

OMB No.: 2120-0522

Administration: Federal Aviation Administration

Title: Inoperable Instrument and Equipment for Multiengine Aircraft FAR 91.30.

Need for Information: Without the information, the owners/operators of multiengine aircraft would be required to have all instruments and equipment in operative condition regardless of the need for the specific instrument and/or equipment.

Proposed Use of Information: The information submitted to the FAA authorizes owners/operators of multiengine aircraft to operate with inoperative instruments and equipment.

Frequency: On occasion

Burden Estimate: 1,500 total annual hours

Respondents: Aircraft owners and operators

Form(s): None

Average Burden Hours Per Respondent: An average of 6 hours per response

DOT No.: 3139

OMB No.: 2127-0505

Administration: National Highway Traffic Safety Administration

Title: 49 CFR 571.217, Bus Emergency Retention and Release

Need for Information: To insure passenger safety for emergency exit.

Proposed Use of Information: This standard requires emergency exit identification to be marked in all buses, along with concise operating instructions explaining how to unlatch and open the exit.

Frequency: On occasion

Burden Estimate: 113 hours

Respondents: Manufacturers

Form(s): None

Average Burden Hours Per Respondent: $60 \times .001388 = 0.08$ hours (5 minutes)

DOT No.: 3140

OMB No.: 2125-0540

Administration: Federal Highway Administration

Title: Nationwide Truck Activity and Commodity Survey

Need for Information: To collect additional information primarily from commodity-carrying trucks which have a major impact on the Federal-aid Highway System.

Proposed Use of Information: To provide DOT with essential data for the analysis of highway user charges, truck size and weight issues, and related aspects of the Federal-aid Highway Program.

Frequency: Other: 1 time only

Burden Estimate: 21,000

Respondents: Individuals or households/farms/businesses/or other for profit/non-profit institutions/small businesses or organizations

Form(s): Survey Report Forms NTACS-2 and NTACS-1

Average Burden Hours Per Respondent: The average completion time for the report form NTACS-2 is 35 minutes and the average completion time for the report from NTACS-1 is 25 minutes.

DOT No.: 3142

OMB No.: 2115-0543

Administration: U.S. Coast Guard

Title: Reception Facilities for Oil, Noxious Liquid Substances and Garbage

Need for Information: This information collection requirement is needed to support the Act to Prevent Pollution from Ships which implements the discharge prohibitions of MARPOL 73/78 and Annex I (Oil), Annex II (NLS) and Annex V (Garbage).

Proposed Use of Information: The information is used to: (1) determine if proposed reception facilities are adequate to receive waste which ships cannot discharge at sea (2) grant waivers in particular circumstances; (3) provide Coast Guard with necessary changes for publication in the Federal Register; and, (4) evaluate an appeal of Coast Guard's action.

Frequency: On occasion

Burden Estimate: 1,990 hours

Respondents: Owners/operators of ports and terminals used by oceangoing ships handling MARPOL regulated chemicals

Form(s): CG-5401, CG-5401A, CG-5401B

Average Burden Per Respondent: 2 hours

DOT No.: 3143

OMB No.: 2133-0016

Administration: Maritime Administration

Title: Container/Trailer Report

Need for Information: To maintain the only comprehensive Government source of oceanborne container movement information.

Proposed Use of Information: To provide shipping data to other Government Agencies, Businesses, and other groups. Also to MARAD to aid in formal contract hearings.

Frequency: On occasion

Burden Estimate: 4,550 hours

Respondents: Ship-owners and ship-operators

Form(s): MA-578A

Average Burden Hours Per Respondent: 30 minutes

DOT No.: 3144

OMB No.: 2133-0010

Administration: Maritime Administration

Title: U.S. Merchant Marine Academy Application for Admission and Pre-candidate Questionnaire

Need for Information: To document applicant's qualifications for admission to the U.S. Merchant Marine Academy

Proposed Use of Information: To assess and determine the best qualified candidates for the U.S. Merchant Marine Academy.

Frequency: One time requirement

Burden Estimate: 15,000 hours

Respondents: Individuals seeking admission to the academy
Form(s): KP2-65, KP3-4
Average Burden Hours Per Respondent: 5 hours
DOT No.: 3145
OMB No.: 2133-0006
Administration: Maritime Administration
Title: Request for Transfer of Ownership, Registry, and Flag or Lease Charter or Mortgage of U.S. Citizen-owned Documented Vessels.
Need for Information: To document the above requests.
Proposed Use of Information: To examine and approve/disapprove the above requests.
Frequency: On occasion
Burden Estimate: 1,123 hours
Respondents: Individual vessel owners
Form(s): MA-29, 29-Z, MA-29-B
Average Burden Hours Per Respondent: 2½ hours
DOT No.: 3146
OMB No.: 2133-0033
Administration: Maritime Administration
Title: Exporter/Importer Data
Need for Information: To determine whether MARAD is cooperating with vessel owners in devising means to induce U.S. Exporters and Importers to give preference to U.S. Flag Vessels.
Proposed use of Information: MARAD will identify existing and potential movements of cargo that can be targeted for the marketing efforts of MARAD and the U.S. Flag Carriers.
Frequency: On occasion
Burden Estimate: 1,500 hours
Respondents: U.S. Exporters and U.S. Importers
Form(s): MA-740
Average Burden Hours Per Respondent: 1 hour
DOT No.: 3148
OMB No.: 2106-0009
Administration: Federal Aviation Administration
Title: Certification Procedures for Products and Parts, FAR-21
Need for Information: 14 CFR 21 prescribes certification procedures for aircraft, aircraft engines, propellers, products and parts. The information is needed to help determine that the products and parts have no unsafe features, and comply with standards set forth in FAR 21. When that has been determined, the appropriate certification is issued.
Proposed Use of Information: The information collected is used to determine compliance and applicant eligibility.
Frequency: On occasion

Burden Estimate: 44,176 hours. This total is broken down by form as follows:
FAA Form 8130-1—estimated average per response is 12 min.
FAA Form 8130-6—estimated average per response is 42 min.
FAA Form 8130-9—estimated average per response is 42 min.
FAA Form 8130-12—estimated average per response is 15 min.
FAA Form 8110-12—estimated average per response is 30 min. for most sections of the FAR, 3+ hours for Section 21.153, 16 hours for Section 21.267, and 160 hours for Section 21.133.
Respondents: Businesses
Form(s): FAA Forms 8130-1, 8130-6, 8130-9, 8130-12, and 8110-12.
Average Burden Hours Per Respondent: See the above
 Issued in Washington, DC, on November 7, 1988.
Robert J. Woods,
Director of Information Resource Management.
 [FR Doc. 88-26249 Filed 11-10-88; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Executive Committee Meeting With the International Associates

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given for the Executive Committee meeting with the international associates to be held November 28, 1988, in Ballroom Salon A, Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks and introductions; (2) approval of minutes of the last meeting; (3) Executive Director's report; (4) Special Committee Activities Report for September-October; (5) approve Special Committee Reports; (6) consider action of proposals to establish new Special Committees; (7) report on EUROCAE Working Group activities; (8) comments and reports by international associates present; (9) other business; and (10) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500,

Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 1, 1988.

Geoffrey R. McIntyre,
Acting Designated Officer.
 [FR Doc. 88-26172 Filed 11-10-88; 8:45 am]
BILLING CODE 4910-13-M

Proposed Advisory Circular 120-42A; Extended Range Operation With Two-Engine Airplanes (ETOP)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed Advisory Circular (AC) 120-42A, and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) pertaining to extended range operations with two-engine airplanes. This notice is necessary to give all interested persons an opportunity to present their views on the proposed change.

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

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Flight Technical Programs Branch, AFS-210, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be inspected at the above address between 9:00 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Roy Grimes, AFS-210, at the address above, telephone (202) 267-3722.

SUPPLEMENTARY INFORMATION: Comments Invited

A copy of the draft AC may be obtained by contacting the person named above under "FOR FURTHER INFORMATION CONTACT." Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters should identify AC 120-42A and submit comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before issuing the final AC.

Background

This AC provides an acceptable means to obtain approval under FAR § 121.161 for two-engine airplanes to operate over a route which contains a

point farther than one hour flying time at the approved one-engine inoperative cruise speed (in still air) from an adequate airport. It describes the criteria for extended range type design approval, maintenance programs, and operations programs. Change material describes the criteria for type design and operational approval to conduct operations 75 minutes, 120 minutes, and 180 minutes from an adequate airport (at approved single-engine inoperative cruise speed (in still air)). The draft material was developed following a series of meetings between FAA representatives and representatives from pilot groups, airline operators, manufacturers, and international civil aviation authorities.

Issued in Washington, DC, on November 4, 1988.

D.C. Beaudette,

Acting Director, Flight Standards Service.

[FR Doc. 88-26173 Filed 11-10-88; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Hazardous Materials Transportation; Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the

suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATE: Comment period closes November 30, 1988.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW, Washington, DC.

Application No.	Applicant	Renewal of exemption
3095-X	The Dow Chemical Co., Midland, MI.	3095
3498-X	U.S. Department of Defense, Falls Church, VA.	3498
3630-X	General Chemical Corp., Parsippany, NJ.	3630
4698-X	United Technologies Automotive Group, Howe, IN.	4698
4726-X	U.S. Department of Energy, Washington, DC.	4726
5022-X	Morton Thiokol, Inc., Elkton, MD.	5022
5022-X	U.S. Department of Defense, Falls Church, VA.	5022
5022-X	Hercules Aerospace Co., Magna, UT.	5022
5022-X	United Technologies Chemical Systems, San Jose, CA.	5022
5022-X	Boeing Aerospace Co., Seattle, WA.	5022
5600-X	Air Products and Chemicals, Inc., Allentown, PA.	5600
6267-X	Alden Leeds, Inc., South Kearny, NJ.	6267
6296-X	Platte Chemical Co., Greeley, CO.	6296
6651-X	Heatbath Corp., Chicago, IL.	6651
6686-X	Chilton Metal Products Division, Chilton, WI.	6686
7517-X	Trinity Industries, Inc., Dallas, TX.	7517
7657-X	Welker Engineering Co., Suar Land, TX.	7657
7765-X	Carleton Technologies Inc., Tampa, FL.	7765
7774-X	Pipe Recovery Systems, Inc., Houston, TX.	7774
7822-X	Air Products and Chemicals, Inc., Allentown, PA.	7822
7862-X	General Electric Co., Milwaukee, WI.	7862
7943-X	Chem Lab Products, Inc., Ontario, CA.	7943
8115-X	Acurex Corp., Mountain View, VA.	8115

Application No.	Applicant	Renewal of exemption
8451-X	U.S. Department of Defense, Falls Church, VA.	8451
8451-X	Boeing Military Airplanes, Wichita, KS.	8451
8480-X	Gillette Co., Boston, MA	8480
8494-X	Fruehauf Corp., Omaha, NE.	8494
8495-X	Walter Kidde, Wilson, NC.	8495
8498-X	Hunter Drums, Ltd., Bramalea Ontario, Canada.	8498
8519-X	Atlantic Container Line, Ltd., Elizabeth, NJ.	8519
8526-X	Phelco, Inc. Trucking, Hazelwood, MO.	8526
8539-X	Aero Taxi-Rockford, Inc., Rockford, IL.	8539
8561-X	HTL Division of Pacific Scientific Co., Duarte, CA.	8561
8710-X	Akzo Chemicals Inc., formerly Akzo Chemie America, Chicago, IL (See Footnote 1).	8710
8723-X	Strawn Explosives, Inc., Dallas, TX.	8723
8877-X	Hoechst Celanese Corp., Somerville, NJ.	8877
8877-X	Union Carbide Corp., Danbury, CT.	8877
8877-X	General Chemical Corp., Parsippany, NJ.	8877
8877-X	PCR, Inc., Gainesville, FL.	8877
8901-X	Soweco, Inc., Amarillo, TX.	8901
8903-X	Teledyne McCormick Selph, Hollister, CA.	8903
8906-X	FMC Corp., Philadelphia, PA.	8906
8939-X	Hollice Clark Truck Fabrication, Inc., Odessa, TX.	8939
9023-X	Eurotainer, S.A., Paris, France.	9023
9220-X	Custom Packaging Systems, Inc., Manistee, MI.	9220
9243-X	Abatar, Inc., Winter Park, FL.	9243
9289-X	ICI Americas Inc., Wilmington, DE (See Footnote 2).	9289
9329-X	Western Atlas International, Houston, TX.	9329
9332-X	Engelhard Corp., Edison, NJ.	9332
9340-X	Pioneer Plastics & Services Co., Ltd., Brampton, Ontario, CN.	9340
9348-X	DURACELL, Inc., Bethel, CT (See Footnote 3).	9348
9354-X	Companhia Nitro Quimica Brasileira, Sao Paulo, Sp Brazil.	9354
9507-X	Union Carbide Corp., Danbury, CT.	9507
9507-X	Air Products and Chemicals, Inc., Allentown, PA.	9507
9554-X	ENPAC Corp., Jacksonville, FL.	9554
9627-X	TLC Air, Inc., Addison, TX.	9627

Application No.	Applicant	Renewal of exemption	Application No.	Applicant	Parties to exemption
9644-X	Atlas Powder Co., Dallas, TX.	9644	7607-P	Versar, Inc., Springfield, VA.	7607
9676-X	EM Science, Cincinnati, OH.	9676	7616-P	Chicago & Northwestern Transportation Co., Chicago, IL.	7616
9679-X	Michlin Diazo Products Corp., Dearborn, MI.	9679	7753-P	FMC Corp., Philadelphia, PA.	7753
9690-X	Snyder Industries, Inc., Lincoln, NE.	9690	8214-P	Allied-Signal, Inc., Troy, MI.	8214
9700-X	Dow Chemical Co., Midland, MI.	9700	8214-P	Nissan Motor Corp. in U.S.A., Gardena, CA.	8214
9785-X	Compagnie Generale Maritime, Paris, France.	9785	8445-P	Waste Conversion, Inc., Hatfield, PA.	8445
9940-X	G.E. Reuter-Stokes, Twinsburg, OH (See Footnote 4).	9940	8451-P	Battelle Columbus Division, Columbus, OH.	8451
10067-X	Hamilton Standard, Div. of United Technologies, Windsor Locks, CT (See Footnote 5).	10067	8451-P	Motorola Tactical Electronics Division (TED), Scottsdale, AZ.	8451
10067-X	U.S. Department of Energy, Washington, DC (See Footnote 6).	10067	8489-P	IRECO, Inc., Salt Lake City, UT.	8489
			8871-P	IRECO, Inc., Salt Lake City, UT.	8871
			9144-P	IRECO, Inc., Salt Lake City, UT.	9144
			9220-P	IRECO, Inc., Salt Lake City, UT.	9220
			9275-P	J.C.&F., Inc., Jersey City, NJ.	9275
			9367-P	IRECO, Inc., Salt Lake City, UT.	9367
			9507-P	Messer Greisheim Industries, Valley Forge, PA.	9507
			9533-P	IRECO, Inc., Salt Lake City, UT.	9533
			9607-P	Revlon Professional Products Group, Jacksonville, FL.	9607
			9701-P	IRECO, Inc., Salt Lake City, UT.	9701
			9713-P	IRECO, Inc., Salt Lake City, UT.	9713
			9723-P	Triumvirate, Inc., Quincy, MA.	9723
			9783-P	IRECO, Inc., Salt Lake City, UT.	9783
			9785-P	Maersk, Inc., Madison, NJ.	9785
			9785-P	Thos & Jas Harrison Ltd., Liverpool, England.	9785
			9806-P	IRECO, Inc., Salt Lake City, UT.	9806
			9848-P	IRECO, Inc., Salt Lake City, UT.	9848
			10044-P	Western Sales & Testing of Amarillo, Inc., Amarillo, TX.	10044
			10048-P	Air Products and Chemicals, Inc., Allentown, PA.	10048

- (1) To authorize Trigonox 165 as an additional commodity.
- (2) To renew and authorize additional combustible liquids identified by their trade names for shipment in metal or polyethylene portable tanks.
- (3) To renew and authorize motor vehicle, rail freight and cargo vessel as additional modes of transportation not to exceed six batteries shipped as cargo.
- (4) To authorize passenger carrying aircraft as additional mode of transportation.
- (5) To review party status originally issued on emergency basis to authorize shipment of Hydrazine, anhydrous, classed as a flammable liquid in specially designed modular propulsion system.
- (6) To renew exemption originally issued on an emergency basis to authorize shipment of Hydrazine, anhydrous, class as a flammable liquid in specially designed modular propulsion system.

Application No.	Applicant	Parties to exemption
6765-P	Iwatani International Corp., Tokyo Japan.	6765
7052-P	DC Battery Products, St. Paul, MN.	7052
7052-P	GE Reuter-Stokes, Twinsburg, OH.	7052
7052-P	Wood Group Wireline Products, Inc., Fort Worth, TX.	7052
7052-P	Tracor Aerospace, Inc., Austin, TX.	7052
7052-P	Aquatronics, Hadlock, WA.	7052
7052-P	GE Aerospace, Philadelphia, PA.	7052
7607-P	Delta Environmental Consultants, Inc., Tampa, FL.	7607

This notice of receipt of applications for renewal of exemptions and for party

to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 7, 1988.

J. Suzanne Hedgepeth,
Chief, Exemptions Branch, Office of Hazardous Materials Transportation.
 [FR Doc. 88-26207 Filed 11-10-88; 8:45 am]

BILLING CODE 4910-60-M

Research and Special Programs Administration of Hazardous Materials Transportation; Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATE: Comment period closes December 15, 1988.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

New Exemptions

Application number—applicant	Regulation(s) affected	Nature of exemption thereof
10068-N—Boliden Mineral AB, Skelleftehamn, Sweden	49 CFR 173.366	To authorize shipment of arsenic trioxide classed as a Poison B, in flexible, woven, polypropylene intermediate bulk containers with a polyethylene inner liner. (modes 1, 2, 3)

Application number—applicant	Regulation(s) affected	Nature of exemption thereof
10069-N—Martin Electronics, Inc., Perry, FL.....	49 CFR 172.101, 173.88, 173.91	To authorize shipment of special fireworks, classed as a Class B explosive, as a Class C explosive when shipped separately from the initiating device. (mode 1)
10070-N—Williams Pipe Line Company, Coralville, IA.....	49 CFR 173.119	To authorize use of a non-DOT 1500 gallon capacity vacuum trailer for transporting waste or spilled gasoline, and crude oil, classes as flammable liquids, and fuel oil classed as a combustible liquid. (mode 1)
10071-N—S.A.F.E. Systems, Inc., Decatur, GA.....	49 CFR 173.306, 175.3, 178.33a-9	To authorize shipment of a charged fire extinguisher constructed similarly to the DOT spec. 2Q cylinder except it has not been properly marked. (modes 1, 3, 4, 5)
10072-N—Nupro Company, Willoughby, OH.....	49 CFR 173.327(a)	To authorize use of a bellows valve in cylinders containing a Class A poison. (mode 1)
10073-N—Sonoco Fibre Drum Inc., Lombard, IL.....	49 CFR Part 173 Subparts D, F, H	To authorize manufacture, marking and sale of non-DOT specification integrally lined fibre drum for shipment of those hazardous materials presently authorized for shipment in specification 17E or composite packaging 21P/2U, 21P/2SL, 37M/2U, and 37M/2SL. (modes 1, 2, 3)
10074-N—Environmental Response Corporation, Santa Maria, CA.....	49 CFR 173.119, 173.128, 173.131, 173.136, 173.139, 173.141, 173.148, 173.149a, 173.202, 173.245, 173.247, 173.249, 173.254, 173.255, 173.273, 173.280, 173.287, 173.294, 178.81	To authorize the manufacture, marking and sale of a non-DOT specification waste steel container similar to the DOT spec. 5A steel barrel for shipment of various flammable and combustible, liquids, flammable solids and corrosive materials. (modes 1, 2)
10075-N—Jet Fleet Corporation, Dallas, TX.....	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30, 175.320(b)	To authorize transport of certain Class A, B, and C explosives that are forbidden for transportation by air or are in quantities greater than prescribed for air transportation. (mode 4)
10078-N—Wasson-ECE Instrumentation, Inc., Fort Collins, CO.....	49 CFR 178.42-2	To manufacture, mark sell non-DOT specification cylinder comparable to DOT Specification 3E except for outside diameter of 2.3 inches for shipment of liquefied petroleum gas, classed as flammable gas. (modes 1, 2)

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 7, 1988.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 88-26208 Filed 11-10-88; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: November 7, 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.

Departmental Offices

OMB Number: 1505-0088

Form Number: Treasury International Capital (TIC) Form BL.3

Type of Review: Extension

Title: Intermediary's Notification of Foreign Borrowing, Denominated in U.S. Dollars

Description: This form is designed for use by a bank or other institution to notify a nonbanking customer of its obligation to report on TIC Form CQ-1 borrowings from foreigners which will not be reported by the bank or other intermediary as a custody liability on TIC form BL.2

Respondents: Businesses and other for-profit

Estimated Number of Respondents: 100

Estimated Burden Hours Per Response: 30 minutes

Frequency of Response: On occasion

Estimated Total Reporting Burden: 6,000 hours

Clearance Officer: Dale A. Morgan, (202) 343-0263, Departmental Offices, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, DC 20220

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive

Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88-26150 Filed 11-10-88; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 7, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New

Form Number: 8725

Type of Review: New Collection

Title: Excise Tax on Greenmail

Description: Form 8725 is used by persons who receive "greenmail" to compute and pay the excise tax on greenmail imposed under section 5881. IRS uses the information to verify that the correct amount of tax has been reported.

Respondents: Business or other for-profit

Estimated Number of Respondents: 12

Estimated Burden Hours Per Response/

Recordkeeping:

Recordkeeping, 5 hours 30 minutes

Learning about the law or the form, 35 minutes

Preparing and sending the form to IRS, 43 minutes

Frequency of Response: On occasion

Estimated Total Recordkeeping/

Reporting Burden: 82 hours

OMB Number: 1545-0245

Form Number: 6627

Type of Review: Revision

Title: Environmental Taxes

Description: Attached to Form 720 to compute and collect tax on petroleum, chemicals, and imported chemical substances. Information on Form 6627 will be processed by IRS and provided to EPA to report to Congress on the efficiency of the legislation.

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations

Estimated Number of Respondents: 2,000

Estimated Burden Hours Per Response/

Recordkeeping:

Recordkeeping, 25 hours 7 minutes

Learning about the law or the form, 22 minutes

Preparing the form, 1 hour 43 minutes

Copying, assembling, and sending the form to IRS, 16 minutes

Frequency of Response: Quarterly

Estimated Total Recordkeeping/

Reporting Burden: 219,760 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 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88-26151 Filed 11-10-88; 8:45 am]

BILLING CODE 4810-35-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 7, 1988.

The Department of Treasury has made revisions and resubmitted 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 Review Service

OMB Number: 1545-1010

Form Number: 1120-RIC

Type of Review: Resubmission

Title: U.S. Income Tax Return for

Regulated Investment Companies

Description: Form 1120-RIC is filed by a domestic corporation electing to be taxed as a RIC in order to report its income and deductions and to compute its tax liability. IRS uses Form 1120-RIC to determine whether the RIC has correctly reported its income, deductions, and tax liability.

Respondents: Businesses or other for-profit

Estimated Number of Respondents: 2,050

Estimated Burden Hours Per Response:

Recordkeeping, 51 hours 25 minutes
Learning about the law or the form, 19 hours 47 minutes

Preparing the form, 46 hours 37 minutes

Copying, assembling, and sending the form to IRS, 7 hours 14 minutes

Frequency of Response: Annually

Estimated Total Reporting Burden: 256,353 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 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 88-26152 Filed 11-10-88; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 7, 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.

Alcohol, Tobacco and Firearms

OMB Number: 1512-0182

Form Number: ATF F 5400.13/5400.16

Type of Review: Extension

Title: Application for License or Permit

Description: This form allows application for an Explosives license or permit which, if approved, permits the holder to engage in certain Explosives activities under Title XI of the Organized Crime Control Act of 1970. Emphasis is on qualified persons and proper storage. \$10,000 Fine/10 Years in prison are possible penalties for violation.

Respondents: Businesses or other for-profit, Small business or organizations

Estimated Number of Respondents: 2,100

Estimated Burden Hours Per Response: 3 hours

Frequency of Response: Annually

Estimated Total Reporting Burden: 6,200 hours

Clearance Officer: Robert Masarsky, (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88-26153 Filed 11-10-88; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

Bureau of the Public Debt; Office of Administration Reorganization

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice of reorganization.

SUMMARY: Effective November 15, 1988, the Bureau of the Public Debt will reorganize the Office of Administration (OA). After reorganization, OA will be comprised of the Office of the Assistant Commissioner (Administration) and the following components: (1) Division of

Personnel Management, (2) Division of Planning and Program Analysis, (3) Division of Financial Management, and (4) Division of Management Services.

FOR FURTHER INFORMATION CONTACT: Kathryn O. D'Auria, Director, Administrative Policy Staff, Bureau of the Public Debt, E Street Building, Washington, DC 20239-0001, 202-376-4330.

SUPPLEMENTARY INFORMATION: The OA reorganization was undertaken to provide a better structure for the

performance of the administrative functions of the Bureau, and to reflect changes in scope and responsibilities of the various organizational components. Changes are intended to improve OA's ability to provide services and to develop programs to support the Bureau's mission.

The reorganization strengthens overall management and control of program activities within the Office of Administration and will improve services to the other offices in the Bureau.

Under the general authority vested in the Secretary of the Treasury in 5 U.S.C. Sec. 301 and 31 U.S.C. Sec. 321, approval for the reorganization was granted on September 22, 1988, by the Assistant Secretary of the Treasury (Management).

Date: November 7, 1988.

Richard L. Gregg,
Commissioner.

[FR Doc. 88-26149 Filed 11-10-88; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register

Vol. 53, No. 219

Monday, November 14, 1983

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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53 FR 45184, Tuesday, November 8, 1988.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time) Monday, November 14, 1988.

CHANGE IN THE MEETING: The meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer, Executive Secretariat, (202) 634-6748.

Date: November 8, 1988.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 88-26346 Filed 11-9-88; 3:50 pm]

BILLING CODE 6750-06-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:02 p.m. on Tuesday, November 8, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to: (1) An assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act; (2) the possible closing of certain insured banks; and (3) an administrative enforcement proceeding.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: November 9, 1988.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 88-26347 Filed 11-9-88; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Wednesday, November 16, 1988, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Request for modification of a condition of a purchase and assumption approval:

The Bank of Casey, Casey, Illinois.

Memorandum and resolution re: Final amendments to Part 308 of the Corporation's rules and regulations, entitled "Rules of Practice and Procedures."

Memorandum and resolution re: Final amendments to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," which amendments (1) reflect those changes made in 12 U.S.C. 1832 by Congress which give nonprofit political organizations the right to hold NOW accounts; and (2) make certain other technical changes.

Memorandum and resolution re: (1) Final amendments to Part 336 of the Corporation's rules and regulations, entitled "Employee Responsibilities and Conduct;" and (2) final amendments to one of the Corporation's Privacy Act system or records, which amendments (a) reflect the addition of the Employee Certification and Acknowledgement of FDIC Standards of Conduct Regulation to the system, (b) add the Statement of

Credit Card Obligation in Insured State Nonmember Bank and Acknowledgement of Conditions for Retention—Notice of Disqualification to the system, (c) delete Financial Disclosure Reports submitted pursuant to title II of the Ethics in Government Act of 1978 from the system, (d) reflect a change in system location from one location in Washington, DC, to designated divisional, regional, and consolidated offices of the Corporation, and (e) generally clarify and update the system.

Memorandum and resolution re: Amendment to one of the Corporation's systems of records, maintained pursuant to the Privacy Act of 1974, which amendment (1) retitles the "Administrative Action System" to read "Administrative and Personnel Action System" and (2) updates the language describing the system.

Resolution amending the delegations of authority with respect to regulation and supervision expenditures.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Proposed amendments to the Corporation's rules and regulations in the form of new Part 354 to be entitled "Deposit Liabilities," which amendments would find that a bank's liability on a promissory note, bond, acknowledgement of advance, or similar obligation that is issued or undertaken by the insured bank as a means of obtaining funds is a deposit liability, with certain enumerated exceptions to the general proviso.

Memorandum re: Statement of Policy Regarding Independent External Auditing Programs of State Nonmember Banks.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: November 9, 1988.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 88-26348 Filed 11-9-88; 3:51 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION**Agency Meeting**

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Wednesday, November 16, 1988, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof.

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report re:

Bank of Dallas, Dallas, Texas (2781) (Memo dated October 4, 1988)

Audit Report re:

Denver Consolidated Office, Cost Center—603 (Memo dated October 12, 1988)

EDP Audit Report re:

Dallas Regional Office, Cost Center—400 (Memo dated September 30, 1988)

Audit Report re:

Payment of Depositors' Claims Process (Memo dated October 17, 1988).

Recommendation regarding the Corporation's assistance agreement with an insured bank.

Discussion Agenda:

Application for Federal deposit insurance:

First Commercial Thrift and Loan Company, a proposed new industrial bank to be located at 655 Anton Boulevard, Costa Mesa, California.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Matters relating to the possible closing of certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: November 9, 1988.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 88-26349 Filed 11-9-88; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, November 16, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposals regarding the Office of Inspector General (OIG): Impact of 1988 IG Act amendments, and revised OIG charter.

2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Date: November 9, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-26273 Filed 11-9-88; 10:16 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 10:30 a.m., Wednesday, November 16, 1988, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a closed meeting on November 9, 1988.)

2. Personnel actions (appointments, promotions, assignments, reassignments and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: November 9, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-26274 Filed 11-9-88; 10:16 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Tuesday, December 13, 1988.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to Public:

(1) Oral Argument in Louisiana-Pacific Corporation, Docket No. C-2956.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in Louisiana-Pacific Corporation, Docket No. C-2956.

CONTACT PERSON FOR MORE INFORMATION:

Susan B. Ticknor, Office of Public Affairs; (202) 326-2179; Recorded Message: (202) 326-2711.

Benjamin I. Berman,

Secretary.

[FR Doc. 88-26350 Filed 11-9-88; 4:01 pm]

BILLING CODE 6750-01-M

Corrections

Federal Register

Vol. 53, No. 219

Monday, November 14, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 11

[Docket No. 88-160]

Horse Protection Regulations

Correction

In rule document 88-24471 beginning on page 41561 in the issue of Monday, October 24, 1988, make the following corrections:

PART 11—[CORRECTED]

1. On page 41562, in the second column, the authority citation should be corrected to read as follows:

Authority: 15 U.S.C. 1823, 1824, 1825, and 1828; 44 U.S.C. 3506.

§ 11.2 [Corrected]

2. On the same page, in the same column, in § 11.2(b)(8), in the last line, "hell" should read "heel".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Forest Service

Transfer of Administrative Jurisdiction; Lake Ouachita, AR

Correction

In the issue of Wednesday, November 2, 1988, on page 44214 in the third column, a correction to FR Doc. 88-25405 appeared. The seventh item was inaccurately printed and should have appeared as follows:

7. On page 5612, in the second column, T1S, R23W, Section 27 should read: Pt. SE $\frac{1}{4}$ NE $\frac{1}{4}$ above 610', Pt. NE $\frac{1}{4}$ SE $\frac{1}{4}$ above 610', Pt. NE $\frac{1}{4}$ SW $\frac{1}{4}$ above 610'.

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 71264-8028]

Atlantic Mackerel, Squid, and Butterfish Fisheries

Correction

In rule document 88-24904 appearing on page 43718 in the issue of Friday, October 28, 1988, make the following correction:

In the second column, under **SUMMARY**, in the seventh line, "DAR" should read "DAH".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 81020-8220]

Atlantic Mackerel, Squid, and Butterfish Fisheries

Correction

In proposed rule document 88-24902 beginning on page 43741 in the issue of Friday, October 28, 1988, make the following corrections:

1. On page 43742, in the first column, in the last complete paragraph, in the seventh line, "§ 655.21(b)(1)(i)" should read "§ 655.21(b)(1)(ii)".

2. On the same page, in the same column, in the third line from the bottom, "Oiy" should read "IOY".

3. On the same page, in the second column, under **Atlantic Squids**, in the first line, "IOYs" should read "OYs".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

National Assessment Governing Board, Education; Meeting

Correction

In notice document 88-25315 beginning on page 44219 in the issue of Wednesday, November 2, 1988, make the following correction:

On page 44219, in the third column, under **FOR FURTHER INFORMATION CONTACT**, in the last line, the telephone number should read "(202) 357-6050".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 103

[Docket No. 86N-0445]

Quality Standards for Foods With No Identity Standards; Bottled Water

Correction

In proposed rule document 88-21120 beginning on page 36063 in the issue of Friday, September 16, 1988, make the following corrections:

1. On page 36065, in the first column, in the fourth complete paragraph, in the 10th line, "53 FR 11396" should read "51 FR 11396".

2. On the same page, in the second column, in the last paragraph, in the first line, "[A] one" should read "[A]s one".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

Correction

In notice document 88-21294 beginning on page 36372 in the issue of Monday, September 19, 1988, make the following correction:

On page 36373, in the second column, in the second paragraph, in the third line, "Lopod" should read "Lopid".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

Correction

In notice document 88-21297 beginning on page 36371 in the issue of Monday,

September 19, 1988, make the following correction:

On page 36371, in the second column, in the second complete paragraph, in the last line, "5 U.S.C. 552(c)(4)" should read "5 U.S.C. 552b(c)(4)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-920-09-4212-13; A-22880]

Exchange of Public and Private Lands in Mohave and Yavapai Counties, AZ

Correction

In notice document 88-24908 beginning on page 43774 in the issue of Friday, October 28, 1988, make the following corrections:

1. On page 43774, in the first column, in the second line of the subject heading, "and" was misspelled.
2. On the same page, in the second column, in the 26th line, the Patent No. "02-89-002" should read "02-89-0002".
3. On the same page, in the same column, in the second land description for Gila and Salt River Meridian, under "T. 14 N., R. 9 W.", in Section 5, at the end of the fourth line, "SE $\frac{1}{4}$ SW $\frac{1}{4}$," should read "SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$,".

BILLING CODE 1505-01-D

Corrections

The following corrections have been made to the article on page 100 of the issue of June 15, 1955:

The name of the author of the article on page 100 should be J. H. [Name] instead of J. H. [Name].

The title of the article on page 100 should be [Title] instead of [Title].

The abstract of the article on page 100 should read [Abstract] instead of [Abstract].

The references of the article on page 100 should be [References] instead of [References].

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The references of the article on page 100 should be [References] instead of [References].

The following corrections have been made to the article on page 100 of the issue of June 15, 1955:

The following corrections have been made to the article on page 100 of the issue of June 15, 1955:

federal register

Monday
November 14, 1988

Part II

**Department of the
Interior**

Fish and Wildlife Service

50 CFR Part 17

**Endangered and Threatened Wildlife and
Plants; Determination of Endangered
Status for the Little-Wing Pearly Mussel
and Threatened Status for *Boltonia
decurrans* (Decurrent False Aster); Rule**

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for *Boltonia decurrens* (Decurrent False Aster)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Boltonia decurrens* (Decurrent false aster), a wet prairie perennial, to be a threatened species under authority of the Endangered Species Act (Act) of 1973, as amended. Twelve populations are known to be extant in five Illinois counties, and two populations, one of which is divided into two subpopulations, are known in one Missouri county. The plant is believed extirpated from 13 other counties in Illinois and three counties in Missouri. It is threatened by destruction and modification of the floodplain forest along the Illinois and Mississippi rivers due to wetland drainage and agricultural expansion. Because of extensive row crop cultivation within the watersheds of these rivers, habitat of the decurrent false aster is continually being modified or destroyed by heavy siltation. This action will implement Federal protection, provided by the Act of 1973, for *Boltonia decurrens*.

EFFECTIVE DATES: December 14, 1988.

ADDRESSES: The complete file for this rule is available for inspection by appointment during normal hours at the Service's Regional Office of Endangered Species, Federal Building, Fort Snelling, Twin Cities, MN 55111.

FOR FURTHER INFORMATION CONTACT: James M. Engel, Endangered Species Coordinator, at the above address (612/725-3276 or FTS 725-3276).

SUPPLEMENTARY INFORMATION:**Background**

Boltonia decurrens, a member of the Aster family, was recognized as a distinct species by Schwegman and Nyboer (1985). However, the taxon has gone by many names in the past. Torrey and Gray (1841) first described it as *Boltonia glastifolia* L'Her. *Beta decurrens*. Subsequently, Wood (1869) described it as *Boltonia decurrens*; Engelmann (1884) as *B. asteroides* (L.) L'Her. var. *decurrens*; and Fernald and Griscom (1940) considered it *B. latisquama* var. *decurrens*. According to

Schwegman and Nyboer (1985), most taxonomists considered the one distinctive feature of the taxon to be leaf bases that are decurrent down the stem. However, Fernald and Griscom (1940) attached more significance to the underground parts and qualified their treatment of *Boltonia latisquama* var. *decurrens* pending further analysis of the underground parts of *Boltonia*. Thus Schwegman and Nyboer (1985) undertook a comprehensive study of the roots and rhizomes of *Boltonia asteroides* var. *recognita* and *Boltonia decurrens* and concluded that *B. decurrens* is clearly separated from *B. asteroides* var. *recognita* by its decurrent leaves and the lack of long white creeping rhizomes. Schwegman and Nyboer (1985) observed that where *Boltonia decurrens* and *Boltonia asteroides* var. *recognita* were found growing together, the former never had rhizomes, and the latter always produced them.

Boltonia decurrens, a perennial, reproduces both vegetatively, by producing basal shoots, and sexually. It will grow to a height of 1.5 meters (59 inches), sometimes reaching heights of more than two meters (79 in.). It is characterized by conspicuous decurrent leaves which are linear to lanceolate about 5-15 cm (2-6 in.) long, and 5-20 mm (.2-.8 in.) wide. The lower leaves are generally broader and longer. The inflorescence is branched and somewhat leafy with several aster like heads with yellow disks 7-14 mm (.3-.6 in.) wide. The rays are white to purple (more frequently purple or violet than white) and 1-1.8 cm (.4-.7 in.) long. Aster like flowers about the size of a quarter-dollar appear on the tall bushy plants from July to October.

Boltonia decurrens was first collected by Dr. Short about 1841 in habitat described as "wet prairies of Illinois." Subsequent investigators, Morgan (1980), Kurz (1981), and Schwegman and Nyboer (1985), list habitat as disturbed alluvial ground along the Mississippi and Illinois rivers and open muddy shores of the floodplain forest along the Mississippi and Illinois rivers. Morgan (1980) describes the habitat as disturbed alluvial ground bordering sloughs, ditches, ponds, and streams. Historically, *B. decurrens* has been known from this type of habitat along a 400 km (250-mile) stretch of river floodplain from LaSalle, Illinois, on the Illinois River, downstream to St. Louis, Missouri, on the Mississippi River. An outlying record reported in 1976, but not relocated since, is known from Cape Girardeau, Missouri, about 195 km (120 miles) down the Mississippi River from

St. Louis (Schwegman and Nyboer 1985). It is thought to be extirpated from thirteen counties in Illinois and three counties in Missouri.

Extensive surveys for the plant were conducted in 1980 and 1981 by Schwegman and Nyboer (1985). An aerial survey of the Illinois River was conducted in 1984 (Schwegman 1984). These surveys located a total of 13 populations in Illinois. Schwegman (pers. comm.) reports a 1986 total of 12 populations in Illinois; three previously known populations disappeared (two were plowed up and one succumbed to forest succession), but two new populations were discovered. These 12 Illinois populations are located along the Illinois River in Morgan, Schuyler, Fulton, and Marshall Counties, and one along the Mississippi River in St. Clair County. In addition, two populations are known from St. Charles County, Missouri (S. Morgan, Missouri Department of Conservation, pers. comm., and B. Stebbins, Fish and Wildlife Service, pers. comm.).

Schwegman and Nyboer (1985) report that the extant populations in Illinois are found in disturbed alluvial soil habitats such as old agricultural fields, roadsides, and disturbed lake shores. The plant is found in similar habitat (disturbed areas) in Missouri (J.H. Wilson, Missouri Department of Conservation, pers. comm.).

Kurz (1981) identifies associated open forest species of *Boltonia decurrens* to include *Acer saccharinum*, *Populus deltoides*, *Platanus occidentalis*, *Betula nigra*, *Salix nigra*, and *Acer negundo*. Herbaceous associates are *Polygonum pennsylvanicum*, *Leersia oryzoides*, *Xanthium strumarium*, and *Bidens aristosa*. Because of frequent flooding, both the overstory and understory are often open.

Boltonia decurrens was first recommended for Federal listing as a threatened species by the Smithsonian Institution in its December 15, 1974, report to Congress, "Report on Endangered and Threatened Plant Species of the United States." On July 1, 1975, the Service published a notice in the *Federal Register* (40 FR 27823) of its acceptance of the Smithsonian Institution report as a petition within the context of Section 4(c)(2) (petition acceptance is now governed by Section 4(b)(3) of the Act). On December 15, 1980, the Service published a revised notice of review for native plants (45 FR 82480). *Boltonia asteroides* var. *decurrens* was included in that notice as a category 2 species.

Category 2 species are those for which the Service believes additional data must be obtained before a proposal to list is warranted. On September 27, 1985 (50 FR 39526), the Service again published a revised notice for native plants in the Federal Register; *Boltonia asteroides* var. *decurrens* was included in that notice as a category 2 species. The treatment of *Boltonia decurrens* by Schwegman and Nyboer in 1985, and status information received since the September 27, 1985 (50 FR 39525), notice indicate that listing *Boltonia decurrens* as a threatened species is warranted.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been submitted on that date. The deadline for a finding on these petitions, including the one for *B. decurrens*, was October 13, 1983. On October 13, 1983; October 12, 1984; October 11, 1985; October 10, 1986; and again on October 13, 1987; the petition finding was made that listing *B. decurrens* was warranted but precluded by other pending actions, in accordance with Section 4(b)(3)(C)(iii) of the Act. A final finding to the effect that the petitioned action was warranted was incorporated in a proposed rule to determine threatened status for *Boltonia decurrens* issued in the Federal Register of February 25, 1988 (53 FR 5598).

Summary of Comments and Recommendations

In the February 25, 1988, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, scientific organizations, landowners, and other interested parties were contacted and requested to comment. Notices inviting public comment were published in the following newspapers: *The Fulton Democrat*, Lewistown, Illinois; *Mason County Democrat*, Havana, Illinois; *Illinois Star Daily*, Beardstown, Illinois; *Journal Star*, Peoria, Illinois; *Lacon Home Journal*, Lacon, Illinois; and *Jacksonville Journal Courier*. Four comments were received and are discussed below.

Comments supporting the listing were received from the Illinois and Missouri Departments of Conservation and a Horticultural Taxonomist from the Missouri Botanical Garden. The U.S. Army Corps of Engineers did not object to the listing and offered comments on the habitat of *B. decurrens*. The Illinois and Missouri Departments of Conservation advised that St. Charles

County is the correct location for *B. decurrens* in Missouri. In addition, Missouri advised that one of the two populations in St. Charles County is threatened by road construction and part of that population was transplanted last fall. The Missouri Department of Conservation will monitor the transplant and search for additional populations of *B. decurrens*. Missouri further suggested that the effects of flooding on the distribution and survival of the species be examined in more detail. The comment from the Missouri Botanical Garden advised that they have the species in cultivation and it is doing well. The Taxonomist from the Garden believes that further taxonomic study is needed for this species, and advised that some is underway. All comments are now incorporated into this rule and the Service appreciates the assistance to all parties.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Boltonia decurrens* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Boltonia decurrens* (Torr. & Gray) Wood are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* *Boltonia decurrens* is threatened by the elimination and modification of its floodplain habitat. Schwegman and Nyboer (1985) attribute this to the elimination of wet prairies and marshes for agricultural development. As a result of the increased agricultural activities, flooding regimes have changed and siltation has increased. Schwegman and Nyboer (1985) also cite extensive rowcrop agricultural practices and numerous levee systems that increase the amount of silt deposited on river banks during floods, and contribute to the problem. The increased amount of siltation is considered to be the main factor in the reduction of *Boltonia decurrens*. Schwegman (Ambrose 1986) explains that the plant prefers moist, sandy areas, normally found around natural lakes in the Illinois River floodplain; however, these areas now receive two to three inches of silt per year, preventing seed germination.

Before the river carried so much silt, the sandier shores of lakes and streams were suitable for seed germination and maintenance of this species. Schwegman (Ambrose 1986) expects that the only remaining populations of *Boltonia decurrens* occur in areas where agricultural practices maintain proper conditions for seed germination. Without this manipulation, and in the absence of silt-free flooding, the species is not self-sustaining. Effects of flooding on the distribution of *Boltonia decurrens* are not well understood. Research is needed to provide a better understanding of the plant's survival capabilities. Kurz (1981) believes that siltation is apparently more severe now than in pre-settlement times. Increased use of herbicides may also have potential detrimental effects, but more study is needed.

Five of the 14 known extant populations of *B. decurrens* occur on public lands; three on Illinois State lands and two on Army Corps of Engineers lands in St. Charles County, Missouri. Management plans are being developed for the *Boltonia decurrens* populations found on Illinois State lands. The Corps of Engineers may soon enter into a cooperative management agreement with the Missouri Department of Conservation on the areas in St. Charles County, Missouri. Soil manipulation on selected sites within these areas will help us to better understand reproductive requirements of this taxon. Nearly two-thirds of the known populations of *Boltonia decurrens* are found on private lands and receive no protection or management consideration.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Commercial trade of this plant is not known to exist, but collection could reduce populations in more accessible sites.

C. *Disease or predation.* None known which affects this taxon.

d. *The inadequacy of existing regulatory mechanisms.* *Boltonia decurrens* is not presently recognized as being endangered or threatened by the State of Illinois; however, it is currently under review for addition to the State's threatened list. The plant is listed as endangered by Missouri where State regulations prohibit exportation, transportation, or sale of plants on the State or Federal lists. Collecting, digging, or picking any rare or endangered plant without permission of the property owner is prohibited. While approximately 20 percent of the known populations of *Boltonia decurrens* are located upon land owned by the State of

Illinois and receive some form of protection, a majority of the known populations are, as yet, unprotected. Two of the populations in Missouri are located on lands administered by the Corps of Engineers. Although plants are found on public lands, there is no guarantee of protection without specific management plans for *Boltonia decurrens*. The Endangered Species Act offers possibilities for additional protection of this taxon through Section 6 cooperation between the States and the Service, and through Section 7 (interagency cooperation) requirements.

E. Other natural or manmade factors affecting its continued existence. Because *Boltonia decurrens* seems to thrive in disturbed areas, the inadvertent destruction of plants in the course of normal agricultural activities will continue to plague the species' survival (Schwegman and Nyboer 1985). According to Schwegman (Ambrose 1986), the threat of a severe flood such as the one in 1981 that inundated the Illinois floodplain and deposited large amounts of silt still exists. For several years after that flood it was feared that *B. decurrens* was extirpated. In Illinois, the taxon is only known from disturbed habitat. Nearly all the known populations are found in habitat kept open by occasional cropping. Research is needed to better understand the amount of disturbance and habitat alteration the plant can tolerate.

In determining to make this final rule the Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species. Nine of the 14 known populations are on privately owned property and receive no protection or management designed to enhance the species' continued existence.

Based on this evaluation, the preferred action is to list *B. decurrens* as threatened, as opposed to endangered, because the species is not in danger of immediate extinction, but does have a restricted range and is confronted by a number of problems. For reasons detailed below, it is not considered prudent to propose designation of critical habitat

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. The designation of critical habitat is not considered to be prudent when such designation would not be of net benefit to the species involved (50 CFR 424.12).

The Service believes that designation of critical habitat for *Boltonia decurrens* would not be prudent because no benefit to the species can be identified that would outweigh the potential threat of vandalism or collection, which might be exacerbated by the publication of detailed critical habitat maps.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States. It also requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. Some may be undertaken prior to listing, circumstances permitting. Management actions that may be of benefit to *Boltonia decurrens* include: developing and implementing protection plans for publicly owned areas; establishing a monitoring system; censusing all known populations; and establishing controlled till plots to monitor seedling emergence after cultivation. The protection required of Federal agencies and the prohibitions against collecting are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to consult with the Service on any action that is likely to jeopardize the continued existence of such a species or result in the destruction or adverse modification of critical habitat, if any is being designated. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species, or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The U.S. Army Corps of Engineers has jurisdiction over one of

the *Boltonia decurrens* populations in St. Charles County, Missouri.

The Food Security Act of 1985 (Pub.L. 99-198) also provides at sections 1314 and 1318 opportunities for the Service and State conservation agencies to acquire restrictive easements beneficial to endangered and threatened species on lands acquired by the Farmers Home Administration in the course of farm foreclosures. Upon notification by the Farmers Home Administration of pending foreclosures, the Service is continually reviewing possible areas where restrictive easements would benefit endangered and threatened species.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. With respect to *Boltonia decurrens*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, will apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Seeds from cultivated specimens are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. International and interstate commerce in *Boltonia decurrens* is not known to exist. It is anticipated that few trade permits would ever be sought or issued, since this plant is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 27239, Central Station, Washington, DC 20038-7329, (703/343-4955).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. The reasons for this determination were published in the

Federal Register on October 25, 1983 (48 FR 49244).

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Author

The primary author of this rule is William F. Harrison (see ADDRESSES section) (612/725-3276 or FTS 725-3276).

List of Subjects in 50 CFR Part 17

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

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of

Chapter I, Title 50 of the CFR, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-635, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Asteraceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *
 (h) * * *

Species	Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name				
Asteraceae—Aster family:					
<i>Boltonia decurrens</i>	Decurrent false aster	U.S.A. (IL, MO)	T	341	NA NA

Dated: October 25, 1988.
 Susan Recce,
 Acting Assistant Secretary for Fish and Wildlife and Parks.
 [FR Doc. 88-26187 Filed 11-10-88; 8:45 am]
 BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Species Status for the Little-wing Pearly Mussel

AGENCY: Fish and Wildlife Service, Interior.
ACTION: Final rule.

SUMMARY: The Service designates the little-wing pearly mussel (*Pegias fabula*) as an endangered species under the Endangered Species Act of 1973, as amended. This freshwater mussel has been reported historically from 27 river reaches in Alabama, North Carolina, Kentucky, Tennessee, and Virginia. Only six small populations are known to survive—three in Kentucky, one in Tennessee, and two in Virginia. The species' decline has resulted primarily from habitat and water quality deterioration caused by impoundments and by pollution and siltation resulting

from mining, agriculture, and construction activities. Owing to the species' limited distribution, any factor that adversely modifies habitat or water quality in the short river reaches that the species inhabits could threaten its survival. This final rule extends the protection provided by the Endangered Species Act to the little-wing pearly mussel.

EFFECTIVE DATE: December 14, 1988.
ADDRESSES: A complete file of this rule is available for public inspection, during normal business hours, at the Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801.
FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Biggins at the above address (704/259-0321 or FTS 672-0321).
SUPPLEMENTARY INFORMATION:

Background

The little-wing pearly mussel (*Pegias fabula*) was originally described by Lea (1838) as *Margaritana fabula*. Simpson (1900) placed the species by itself in his new genus *Pegias* and listed previous scientific name combinations that had been applied to this species. Ortmann (1914) considered *Pegias* to be a subgenus of *Alasmidonta*; that change has been followed by few subsequent authorities. The Service follows Simpson (1900) and Clarke (1981) in

considering *Margaritana curreyiana* Lea, 1840, to be a synonym of *Pegias fabula*.

The little-wing pearly mussel has been recorded historically from 27 river reaches in Alabama, North Carolina, Kentucky, Tennessee, and Virginia. All of the reported localities are in either the Tennessee or the Cumberland River drainages (Ahlstedt 1986, Bakaletz *in litt.*, Clarke 1981, Stansbery 1976). Based on a recently completed Service-funded survey involving extensive field studies of potential and historic habitat in Cumberland and Tennessee River tributaries (Ahlstedt 1986), the results of a study funded by the U.S. Army Corps of Engineers (Corps) (Bakaletz *in litt.*), and the results of a survey conducted by Virginia Polytechnic Institute and State University (Richard Neves, Virginia Polytechnic Institute and State University, personal communication, 1987), the little-wing pearly mussel is now apparently restricted to six short stream reaches—three in southeastern Kentucky, two in southwestern Virginia, and one in central Tennessee. The Kentucky populations are on both public and private lands, while the Tennessee and Virginia populations are primarily on private lands. Habitat loss and water quality deterioration, attributable to impoundments, to industrial and municipal pollution, and to siltation

resulting from mining, agriculture, large land disturbances, and construction activities, are the primary reasons for the species' decline. However, some losses are apparently due to other factors or to less drastic changes in water and habitat quality, as some populations have been extirpated from stream reaches that still contain mussel communities comprising other species (Stansbery 1976).

Horse Lick Creek in Jackson and Rockcastle Counties, Kentucky, presently contains the most extensive little-wing pearly mussel population, but it is threatened by surface coal mining activities and oil and gas exploration (Ahlstedt 1986). The Big South Fork Cumberland River, McCreary County, Kentucky, contains a restricted population (Bakaletz *in litt.*). This population occurs in a short river section that is limited both upstream and downstream by deteriorating water quality resulting from poor land use practices and the impact of coal mining. The population in the Little South Fork Cumberland River, McCreary and Wayne Counties, Kentucky, once contained a substantial number of individuals; but recent mussel collections in this stream reach (Ahlstedt 1986; Skip Call, Kentucky Department for Environmental Protection, personal communication, 1985; Robert Anderson, Tennessee Technological University, personal communication, 1988) have revealed large numbers of dead little-wing pearly mussels and other species, including a federally listed endangered species, the Cumberland bean pearly mussel (*Villosa trabalis*).

The Virginia populations of the little-wing pearly mussel are restricted to a single shoal in the North Fork Holston River in Smyth County and a short river reach in the Clinch River in Tazewell County. These populations are small and are vulnerable to toxic chemical spills and siltation from land use changes and construction.

The Tennessee population is in Cane Creek, Van Buren County. This population is also very small (probably inhabits less than 2 river miles) and vulnerable to toxic chemical spills.

The little-wing pearly mussel, the only species in the genus *Pegias*, is small, not exceeding 1.5 inches (3.8 centimeters) in length and 0.5 inches (1.3 centimeters) in width. The shell's outer surface (periostracum) is usually eroded, giving the shell a chalky or ashy white appearance. When present, however, the periostracum is light green or dark yellowish brown with dark rays of variable width along the anterior portion of the shell (Ahlstedt 1986). The species

inhabits small, cool, high-to-moderate gradient streams, where it is usually found in the transition zone between pools and riffles. Like other freshwater mussels, it feeds by filtering food particles from the water; and like most species in its family (Unionidae), its reproductive cycle probably includes a larval stage that parasitizes a host fish. The mussel's life span, host fish species, and many other aspects of its life history are unknown.

The little-wing pearly mussel was recognized by the Service in the May 22, 1984, Federal Register (49 FR 21664) as a species that was being considered for possible addition to the List of Endangered and Threatened Wildlife. On June 22, 1987, the Service notified Federal, State, and local governmental agencies by mail (State fish and wildlife agencies were also contacted by telephone) that the species' status was being reviewed and that the species could be proposed for listing. The Service received 16 responses to the notification. Support for Federal protection was expressed by all three States involved, and no party voiced any objection to proposing Federal protection. The little-wing pearly mussel was proposed for listing as endangered on April 21, 1988 (53 FR 13226).

Summary of Comments and Recommendations

In the April 21, 1988, proposed rule and associated notifications, all interested parties were requested to submit factual reports and information that might contribute to development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and interested parties were contacted and requested to comment. A newspaper notice was published in the following papers: *News-Messenger*, Saltville, Virginia, May 12, 1988; *McCreary County Record*, Whitley City, Kentucky, May 10, 1988; *Commonwealth-Journal*, Somerset, Kentucky, May 8, 1988; *Expositor*, Sparta, Tennessee, May 9, 1988; and *Clinch Valley News*, Tazewell, Virginia, May 11, 1988.

All eight respondents—the U.S. Department of the Interior's Office of Surface Mining; the U.S. Forest Service; the Tennessee Valley Authority; the States of Kentucky, Tennessee, and Virginia; and two private individuals supported the listing.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the little-wing pearly mussel should

be classified as an endangered species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the little-wing pearly mussel (*Pegias fabula*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Of the 27 river reaches reported to have supported little-wing pearly mussel populations (Ahlstedt 1986, Clarke 1981, Stansbery 1976), only six (three in Kentucky, two in Virginia, and one in Tennessee) are known to still support the species (Ahlstedt 1986; Bakaletz *in litt.*; Richard Neves, personal communication, 1987) (see "Background" section). The species has apparently been extirpated from Alabama (two historic populations lost) and North Carolina (one historic population lost). Although it still survives in Kentucky, Tennessee, and Virginia, three populations in Kentucky, nine in Tennessee, and six in Virginia are believed to have been extirpated. The loss of some populations can be linked to specific causes, such as the impacts of coal mining, industrial and municipal pollution, and impoundments. However, other populations have apparently been lost to the general deterioration in aquatic habitat quality. Stansbery (1976) states, concerning this species, "Its disappearance from several sites which still retain populations of other species indicates a form highly sensitive to current changes."

Ahlstedt (1986) surveyed 55 potential and historic habitats but was able to find a total of only 17 live specimens. Seven live and three dead specimens were found in Horse Lick Creek in Jackson and Rockcastle Counties, Kentucky. This population, which extends over at least 10 creek miles, is one of the healthiest of the surviving populations. Horse Lick Creek, identified by the Kentucky Division for Environmental Protection as one of Kentucky's Outstanding Resource Waters, has good habitat and water quality and a complex mussel fauna. The Horse Lick Creek watershed is remote, not extensively developed, and partially within the Daniel Boone National Forest. However, the watershed has oil, gas, and coal deposits, and the exploration and development of these resources has already begun. This population can be protected only if the survival of the

species is considered during the development of these resources.

In a recent study funded by the Corps (Bakaletz *in litt.*), a small population of the little-wing pearly mussel was discovered in a 2.1-mile (approximately) section of the Big South Fork Cumberland River (McCreary County, Kentucky) within the Big South Fork National River and Recreation Area administered by the National Park Service. Much of the Big South Fork Cumberland River is impacted by siltation and acid mine drainage from coal mining activities. However, the short reach inhabited by this species is in a river section that has recovered from upstream impacts and is above the coal mining and impoundment impacts that degrade the lower river. Fourteen other mussel species also occur in this river reach including the federally listed Cumberland bean pearly mussel (*Villosa trabalis*). However, the little-wing pearly mussel, possibly due to its greater sensitivity to environmental degradation, does not inhabit the entire river reach (more than 10 miles) populated by the Cumberland bean pearly mussel.

Sampling in the Little South Fork Cumberland River, McCreary and Wayne Counties, Kentucky, produced 3 live and 126 dead specimens. This population, which extends over about 10 river miles, was once relatively large, but recent deterioration in water quality has had a severe impact on the river's mussel community. Studies by the Kentucky Department for Environmental Protection (Sherri Evans and Skip Call, Kentucky Department for Environmental Protection, personal communications, 1986) indicate that the lower portion of the river section inhabited by the species is being impacted by drainage from abandoned mined lands. Lick Creek, a tributary in this river reach, was found to have substantially elevated concentrations of dissolved solids, sulphates, aluminum, iron, and manganese in November 1985 (Sherri Evans, personal communication, 1986). Although 52 dead specimens were found below Lick Creek, no live little-wing pearly mussels were encountered in this river reach.

Four live and three dead specimens were taken from Cane Creek, Van Buren County, Tennessee. This river has very limited mussel habitat, with the species apparently limited to less than 2 river miles. Downstream from the population, Cane Creek is impounded by Great Falls Lake on the Caney Fork River, while upstream from the population the large boulder substrate is unsuitable habitat for this species, and at some points

upstream the creek goes underground. Some siltation is apparent downstream from a recently constructed bridge.

The population in the North Fork Holston River (three live and three dead specimens collected), Smyth County, Virginia, is small. The North Fork Holston River has been sampled at a number of sites, and, except for one individual taken near Saltville, Virginia, all specimens past and present have been taken at one shoal near Nebo, Virginia.

A small population (six relic shells and one live animal collected) exists in the Clinch River in Tazewell County, Virginia. This population, like the North Fork Holston and Cane Creek populations, is apparently small and extends over only a short river reach.

Potential threats to the species and its habitat could arise from development of coal and/or gas reserves in the watersheds of Horse Lick Creek, Big South Fork Cumberland River, the Little South Fork Cumberland River, and Cane Creek. However, it should be noted that the Service has issued a no-jeopardy biological opinion under Section 7 of the Endangered Species Act to the Office of Surface Mining with respect to its approval of the coal mining regulation program of the Commonwealth of Kentucky. Although no final determination of impact can be made until the little-wing pearly mussel is listed and a consultation undertaken, the Service has no evidence that mining activities conducted in accordance with State and Federal regulations are a threat to the species. Rather, past unregulated activities have contributed to the species' decline, and current activities not in compliance with appropriate regulations may be a threat to the species. All six populations could potentially be impacted by such actions as road construction, stream channel modifications, logging activities, impoundments, sewage treatment plant discharges, land use changes, and other projects in the watershed if such activities are not planned and implemented with the survival of the species and the protection of its habitat in mind. As these populations inhabit only short stream reaches that are all within 1 to 5 miles of bridges and fords, they are all vulnerable to toxic spills.

B. Overutilization for commercial, recreational, scientific, or educational purposes. The specific areas inhabited by the species are presently unknown to the general public. As a result, overutilization of the species has not been a problem. However, through listing and the publicity it brings to a species, the problem of vandalism could

arise, especially if maps of specific occupied habitat areas were identified through critical habitat designation. (See "Critical Habitat" section for reasons why critical habitat is not being designated.)

C. Disease or predation. Although the little-wing pearly mussel is undoubtedly consumed by predatory animals, there is no evidence that predation threatens the species. However, freshwater mussel die-offs have recently been reported throughout the Mississippi River basin, including the Tennessee River and its tributaries (Richard Neves, personal communication, 1986). The cause of the die-offs has not been determined, but significant losses have occurred in some populations. If this problem spreads to river reaches containing this species, significant losses could occur and further endanger the species' survival. Disease is one of the possible explanations for these die-offs.

D. The inadequacy of existing regulatory mechanisms. The States of Kentucky, Tennessee, and Virginia prohibit taking wildlife and fish, including freshwater mussels, for scientific purposes without a State collecting permit. However, these State laws do not protect the species' habitat from the potential impacts of Federal actions. Federal listing will provide the species additional protection under the Endangered Species Act by requiring a Federal permit to take the species and by requiring Federal agencies to consult with the Service when projects they fund, authorize, or carry out may affect the species.

E. Other natural or manmade factors affecting its continued existence. All six known populations are small and isolated. This isolation blocks the natural interchange of genetic material between populations, and small population size reduces the reservoir of genetic variability within the populations. The lack of genetic diversity could adversely affect, over time, the species' ability to evolve and respond to natural habitat changes. The sizes of the little-wing pearly mussel populations are unknown; but considering the limited extent of available habitat and the densities of individuals (no little-wing pearly mussels were taken in 30 quantitative quadrat samples [Ahlstedt 1986]), it is likely these populations, with the possible exception of that in Horse Lick Creek, are now below the generally accepted level (Soulé 1980) required to maintain long-term genetic viability.

The Service has carefully assessed the best scientific and commercial information available regarding the past,

present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the little-wing pearly mussel (*Pegias fabula*) as an endangered species. Historical records reveal that the species, although rare, was once widely distributed in many cool-water tributaries of the Tennessee and Cumberland Rivers. Now only six small, isolated populations are known to survive. Four are threatened by coal mining and/or oil and gas resource development, and all six populations, owing to their small size, are vulnerable to toxic spills. This species is also apparently very sensitive to environmental change, as it has been extirpated from many streams that still contain diverse mussel communities. Owing to the species' history of population losses, its apparent sensitivity to environmental change, and the vulnerable nature of all six populations, threatened status does not appear appropriate for this species. (See "Critical Habitat" section for a discussion of why critical habitat is not being proposed for the little-wing pearly mussel.)

Critical Habitat

Section 7(a)(2) of the Endangered Species Act, as amended, requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. Section 4(a)(3) requires that critical habitat be designated, to the maximum extent prudent and determinable, concurrent with the determination that a species is endangered or threatened. The Service finds that a determination of critical habitat for the little-wing pearly mussel is not prudent. Such a determination would result in no known benefit to the species. As part of the development of the proposed and final rule, Federal agencies have been notified of the little-wing pearly mussel's distribution and have been requested to provide data on proposed Federal projects that might adversely affect the species. No specific projects were identified. Should any potential adverse effects arise from future projects, the involved Federal agencies will already have the species' distributional data needed to determine if the species may be impacted by their action. The listing of a species and the publicity that arises as a consequence creates the potential for vandalism. Through the designation of critical habitat and the requirement for maps and specific habitat descriptions, the threat to the species from vandalism

increases. Therefore, the Service believes that designation of critical habitat would not be prudent because no benefit to the species has been identified that would outweigh the potential threat of vandalism or collection, which would be exacerbated by publication of detailed critical habitat maps and descriptions.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Service is aware of only three Federal agencies (U.S. Forest Service, Office of Surface Mining, and National Park Service) that are presently involved with programs that may affect the species. The Service has been in contact with them concerning the potential impacts of their activities on the species and its habitat. Other Federal activities that could impact the species and its habitat include, but are not limited to, the carrying out of or the issuance of permits for surface mining, hydroelectric facilities, reservoir construction, stream alterations, wastewater facility development, and road and bridge construction. It has been the experience of the Service,

however, that nearly all section 7 consultations are resolved so that the species is protected and the project objectives can be met.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* on October 25, 1983 (48 FR 49244).

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potential. Pages 151-169 IN: M.E. Soulé and B.A. Wilcox (eds.), Conservation Biology. Sinauer Assoc., Inc., Sunderland, MA.

Stansbery, D.H. 1976. Status of endangered fluviatile mollusks in central North America: *Pegias fabula* (Lea, 1838). Report submitted in fulfillment of U.S. Fish and Wildlife Service Contract No. 14-16-0008-755. 6 pp.

Author

The primary author of this final rule is Richard G. Biggins, Asheville Field Office, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259-0321 or FTS 672-0321).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "CLAMS," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *
(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS:							
Pearly mussel, little-wing..	<i>Pegias fabula</i>	U.S.A. (AL, KY, NC, TN, VA).....	NA.....	E	342.....	NA.....	NA.

Dated: October 26, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-26186 Filed 11-10-88; 8:45 am]

BILLING CODE 4310-55-M

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1. Introduction
2. Experimental
3. Results and Discussion
4. Conclusions
5. References

federal register

**Monday
November 14, 1988**

Part III

**Department of
Transportation**

**Research and Special Programs
Administration**

49 CFR Parts 171 et al.

**Classification of Gases Which are Toxic
by Inhalation; Supplemental Notice of
Proposed Rulemaking; Request for
Additional Comments**

DEPARTMENT OF TRANSPORTATION

Research and Special Programs
Administration49 CFR Parts 171, 172, 173, 174, 175,
176, 177, 178, and 179

[Docket No. 181, Notice No. 88-7]

RIN Number 2137-AA01

Classification of Gases Which are
Toxic by InhalationAGENCY: Research and Special Programs
Administration (RSPA), DOT.ACTION: Supplemental notice of
proposed rulemaking; request for
additional comments.

SUMMARY: RSPA is providing additional information and requesting additional comments concerning proposals in Docket HM-181, Notice 87-4 (52 FR 16482 and 52 FR 42772), for classifying certain hazardous materials as Division 2.3 poisonous gases. Of particular concern are the potential effects of the proposed reclassification of anhydrous ammonia as a poisonous gas. Numerous comments to the docket opposed the proposals. RSPA has reviewed the comments regarding the reclassification of anhydrous ammonia. As a result of these comments, RSPA believes that a Supplemental Notice of Proposed Rulemaking is necessary to (1) clarify the proposals, (2) solicit substantive information concerning potential impacts, and (3) describe possible regulatory alternatives that could be considered should the record demonstrate that the impact of a reclassification of anhydrous ammonia would be more severe than necessary to address transportation safety.

DATE: Comments must be received on or before March 9, 1989.

ADDRESSES: Address comments to the Dockets Unit, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590. Comments should identify the docket and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Public dockets may be reviewed between the hours of 8:30 a.m., and 5:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Edward T. Mazzullo, Chief, Standards Division, telephone (202) 366-4488, or James K. O'Steen, Chief, Technical

Division, telephone (202) 366-4545, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

On April 15, 1982, RSPA published (47 FR 16268) an advance notice of proposed rulemaking (ANPRM) in the Federal Register which proposed to adopt performance-oriented packaging standards for small, or "non-bulk", packagings. On May 5, 1987, RSPA published a notice of proposed rulemaking (NPRM) (Docket No. HM-181; Notice No. 87-4) in the Federal Register (52 FR 16482) which expanded the scope of the ANPRM and proposed sweeping changes to the Hazardous Materials Regulations (HMR) addressing not only performance-oriented standards for non-bulk packagings but also changes to hazard classification, hazard communication and bulk packaging. An extension of the comment period from November 2, 1987 to February 26, 1988 was published in the Federal Register (52 FR 33906) on September 8, 1987, due to a pending supplemental NPRM and in response to several requests for additional time to submit comments. On November 6, 1987, RSPA published the supplemental NPRM (52 FR 42772) containing corrections to the initial NPRM and additional proposals. The interested reader is referred to these prior publications for additional information concerning the purpose, scope and specific proposals contained in the notices.

Following publication of the supplemental NPRM, a public hearing was held on November 17 and 18, 1987 in Washington, DC. In early 1988, several commenters again indicated that additional time was needed to fully develop their responses to specific proposals, due to the size and scope of Notice No. 87-4. The specific areas of concern addressed by these commenters included proposed bulk packaging provisions, reclassification of certain materials such as anhydrous ammonia, and non-bulk packaging requirements for poisonous liquids which are toxic by inhalation. In a notice published April 14, 1988 (53 FR 12442), RSPA reopened the comment period for Notice No. 87-4 from February 26, 1988 to May 25, 1988.

Of the more than one thousand comments RSPA has received in response to Docket HM-181, at least seven hundred were addressed to the proposed classification criteria for poisonous gases, generally the proposal

to reclassify anhydrous ammonia from a nonflammable gas to a poisonous gas. In this document, RSPA intends to clarify the proposal (in order to avoid any potential misunderstanding of the proposal or its effects), seek substantiation from the commenters regarding the adverse impacts they perceive in the proposal, and seek comment on whether adjustments to the proposal are necessary.

Hazard Classification System For Gases

The classification system proposed in Notice No. 87-4 sets forth nine numbered classes for hazardous materials, including Class 2 for gases. This system was selected for consideration because it provides an accurate means to establish and communicate the actual risks posed by hazardous materials. The accuracy of classification is critical to the success of emergency response and the protection of emergency responders.

As is the case with certain other Classes, Class 2 is further divided into three divisions: Division 2.1 (flammable gases), Division 2.2 (nonflammable compressed gases) and Division 2.3 (poisonous gases). For poisonous gases, RSPA proposed classification criteria designed to include materials that, if released, could disperse over a large area and endanger the lives and health of a large number of persons, (e.g., the operator of the vehicle carrying the material, passersby, emergency response personnel, and nearby residents).

The proposed criteria classify a gas as poisonous when the material is known to pose a threat to human health based on human experience or, in the absence of human data, the material is considered to be toxic to humans because when tested on laboratory animals the material has an LC50 equal to or less than 5000 parts per million (ppm). As used in the HMR, LC50 means the lethal concentration, present during an exposure period of one hour, at which half or more of a sample population of test animals would die within a fourteen-day observation period.

The proposal, based upon toxicity, further subdivides Division 2.3 poisonous gases into four categories: IA, IB, II and III, ranging from the most toxic (requiring packaging of the highest integrity) to the least toxic, respectively. Under the proposal, anhydrous ammonia would be assigned to category III, the least hazardous group of the proposed poisonous gas division.

The proposed "poisonous gas" classification does not equate to the

existing "Poison A" classification. In contrast to the reclassification proposal, the present regulations contain only a small list of poison gases called Poison A materials. Excluded from the list of Poison A materials are a number of gases that present a significant inhalation hazard and are classified as poisonous under international regulations. An example is chlorine which, although used as a chemical warfare agent in World War I, is presently classified as a nonflammable gas under the HMR.

The proposed definition and grouping scheme for poisonous gases allows for different packaging and operational controls commensurate with the hazard presented by each group. RSPA will develop proposals as appropriate, in conjunction with the respective DOT modal administrations, that could prescribe operational requirements commensurate with the hazards presented by each of the four groups in Division 2.3.

The Proposal as Related to Anhydrous Ammonia

Because anhydrous ammonia is but one of approximately 70 gases that would meet the proposed criteria for poisonous gas, RSPA previously did not fully discuss in the preamble to the notice the available information on the hazards of anhydrous ammonia used to support its proposed reclassification as a poisonous gas. Consequently, commenters did not have a complete explanation of the risks associated with anhydrous ammonia or its record in transportation. To address this situation, there follows a discussion of the hazards of anhydrous ammonia and some of the factual information on which RSPA based the proposed reclassification.

A. Technical Information

Anhydrous ammonia poses an inhalation hazard because of its alkaline corrosive properties that result in the destruction of tissues that are in contact with ammonia gas, liquid or solutions. Similar to many gases, the data for the lethal gas concentration are reported as a wide range of values for several species of animals. The Registry of Toxic Effects of Chemical Substances (RTECS) published by the National Institute for Occupational Safety and Health (NIOSH) lists the following acute toxicity values:

LCLo 2000 ppm/4hrs rat
LC50 4230 ppm/1hr mouse
LCLo 7000 ppm/1hr cat
LCLo 7000 ppm/1hr rabbit
LCLo 5000 ppm/5min mammal

Note: LCLo means "lethal concentration low", i.e., the lowest concentration of a material in air which has been reported to cause death in humans or animals.

Many commenters submitted a study done in the Netherlands (American Industrial Hygiene Association Journal; September 1982), which reported an LC50 (for rats) of 16,600 as evidence that anhydrous ammonia does not meet the proposed criteria for a poisonous gas. RSPA notes the more conservative RTECS values given in the preceding table, and the data on human experience discussed in the following section. Comments are requested as to whether these data are erroneous or otherwise inappropriate for assessing the degree of risk posed by anhydrous ammonia.

B. Transportation Record

In the Acute Hazardous Events Database compiled for the Environmental Protection Agency (EPA), ammonia was the second most common hazardous material in events involving death or injury (accounting for 6.8% of all events), second only to chlorine (9.6%). RSPA is aware of at least 1046 transportation incidents involving inhalation of ammonia in the United States between 1969 and 1987. These incidents resulted in 25 deaths and 602 injuries. When large scale transportation incidents are considered, the magnitude of the hazard is clear. For example, incidents involving the release of anhydrous ammonia in Crete, Nebraska (1969), Belle, West Virginia (1970), Houston, Texas (1976), and Pensacola, Florida (1977) resulted in a total of 13 deaths and 307 injuries.

C. Impacts of Reclassification

In considering the impacts of RSPA's proposal with respect to anhydrous ammonia it is important to note that the proposal is not intended to change, prohibit, or restrict the use of cargo tanks for shipments on public highways. In addition, the reclassification proposal would not change existing regulatory requirements that packages be marked with the 4-digit identification number (1005) and with the proper shipping name or, as an option on cargo tanks, with a common name (e.g., AMMONIA). Current regulations require the use of NONFLAMMABLE GAS labels and placards. These are green, square-on-point, with the symbol of a cylinder in the upper third of the design and bear the words "NONFLAMMABLE GAS". Under the proposed rule, anhydrous ammonia would be classified as a poisonous gas and would, therefore, have to bear a POISON GAS label and placard. These are white with a black "skull and crossbones" symbol but the

words "POISON GAS" or "POISONOUS GAS" would not be required. Labels and placards could be configured in any one of three ways: without any text; with the words "POISON GAS" across the center; or, for placards only, with the identification number across the center. Additionally, each package would have to be marked with the words "INHALATION HAZARD".

The general public, community planners, and emergency response personnel should have access to the best information concerning the hazards associated with a release of anhydrous ammonia. RSPA wants to ensure that the hazards are adequately communicated by any classification system, and questions the adequacy of the present system. On the other hand, RSPA is well aware that anhydrous ammonia has been and can be safely transported and it plays an undeniably important role in this nation's economy. It is the purpose of this notice to establish the basis for striking the proper balance between these two important public policy considerations. In this context, RSPA points out that nothing in the proposal would substantively affect the ability of farmers or others to use or transport anhydrous ammonia, or require the use of different packagings or conveyances for the material. Only labeling, placarding, and shipping paper descriptions for the material would be changed.

In an effort to assure that the comments to the proposal provide the maximum value in resolving the issues in this rulemaking proceeding, RSPA is seeking substantive information on the potential impacts of reclassifying this material. A discussion of these issues follows.

a. Increased transportation costs. Numerous commenters have stated that the change in the classification of anhydrous ammonia will increase its transportation costs. However, more data is needed in order to fully evaluate the impact of a reclassification on freight rates. Specific questions on the issue of freight rates appear at the end of this section of this document.

A second cost issue of concern to commenters is the potential for adverse impact on insurance rates and the availability of insurance if anhydrous ammonia were classed as a poisonous gas. Commenters should submit information on this point; substantive data to support commenters' views would be particularly useful. RSPA additionally solicits information from shippers, insurance companies, and state insurance commissions regarding

the relationship of the proposed classification system and insurance rates.

With respect to the specific regulatory requirements regarding insurance, it should be noted that the proposed rule has no direct effect on the financial responsibility requirements for highway transport which are prescribed in section 30 of the Motor Carrier Act of 1980, as amended (Pub. L. 96-296) and codified in the Motor Carrier Safety Regulations (specifically, 49 CFR 387.9). Currently, anhydrous ammonia, because it is a hazardous substance, is subject to a financial responsibility requirement of \$5 million for motor carriers that transport bulk packagings of more than 3,500 gallons capacity (in either intrastate or interstate transportation) and \$1 million for other quantities (in interstate transportation only). Intrastate transportation of anhydrous ammonia in packages of 3,500 gallons or less is not subject to financial responsibility requirements.

b. *The displacement of anhydrous ammonia by more costly, less effective fertilizers.* Many commenters have stated that the new labeling requirements would alarm the public and lead to the displacement of anhydrous ammonia from the farm economy by other more costly materials. Additional comments to support this concern are requested; substantive data to support commenters' views would be particularly useful.

c. *Non-transportation impacts related to the reclassification of anhydrous ammonia.* Many concerns similar to those expressed about the transportation impacts of the reclassification of anhydrous ammonia have been expressed about fixed facilities, including siting restrictions, and employee health concerns. While siting restrictions for facilities and increased employee health protections are changes that may occur, these would result not from the reclassification of anhydrous ammonia but from environmental protection requirements mandated in 1986 in the Superfund Amendments and Reauthorization Act (SARA; Pub. L. 99-499).

A number of commenters expressed concern about potential adverse impacts on their businesses related to the appearance of skull and crossbones placards and labels on cylinders, storage tanks and transport vehicles containing anhydrous ammonia. In particular, businesses which use anhydrous ammonia in refrigeration systems and in diazo reproduction (i.e., blueprinting) systems believe that the proposed reclassification of anhydrous ammonia would result in extensive

litigation based on employees' claims of exposure to a poisonous gas. Since the proposal would pertain to the same material now being used, and would not change packaging or containment requirements for it, it appears that any increased litigation risk would stem from changes to employee perceptions of anhydrous ammonia, based upon its reclassification. Is this characteristic correct? Additional comments are requested in order for RSPA to evaluate the actual impact of the proposal on the litigation exposure of employers.

Several commenters expressed concerns about the adverse public perception of poisonous gas being applied to the fields where crops are grown and to food products which are refrigerated in facilities using anhydrous ammonia refrigerating systems. These commenters stated that the public would perceive such food products to be tainted and that such products may not be exportable because foreign purchasers restrict the importation of foods treated with poisonous chemicals. RSPA requests information on whether the referenced restrictions apply to materials like anhydrous ammonia which do not leave a poisonous residue, or only to food products treated with certain poisonous fumigants and pesticides which in some instances may remain on the food product in residual form.

To assist RSPA in the further resolution of the issues discussed in this notice, interested parties are invited to comment on the foregoing issues, and in particular, on the following questions, supplying where possible any relevant analyses, studies or data.

1. (a) What are the current average freight charges, per ton, for transportation of anhydrous ammonia by rail tank car? By highway cargo tank? Upon what factors are these charges based?

(b) Assuming no changes in operating requirements, is there any basis for increasing freight rates for anhydrous ammonia as a result of the proposed reclassification of anhydrous ammonia as a "poisonous gas"? To what extent would rates be increased?

(Comments and data from rail and highway carriers would be particularly helpful.)

2. What are representative annual insurance rates for transportation of anhydrous ammonia in bulk (more than 3500 gallons) and non-bulk packages? Do rates differ for interstate and intrastate transportation?

3. How would the proposed classification of anhydrous ammonia impact insurance costs or availability for nurse tank operations?

4. What is the basis for increasing insurance rates for carriers of anhydrous ammonia as a result of the proposed reclassification of anhydrous ammonia as a "poisonous gas"? To what extent would rates be increased?

(Comments and data from state insurance commissions and insurance carriers with significant business with farm clients would be particularly helpful.)

Regulatory Alternatives

In addition to the issues discussed in the preceding section, RSPA also seeks substantive comments concerning available regulatory alternatives. RSPA is interested in achieving a practicable role that enhances public safety, is uniform where necessary for interstate commerce and secondarily for international commerce, and is not unduly burdensome or costly to those who must comply with the rule.

RSPA issued its proposal on the reclassification of gases which are toxic by inhalation as part of its continuing program to update and more accurately portray the hazards of toxic materials. Nevertheless, the number and tenor of comments to the public docket indicate that the notice may not have provided adequate explanation of the intent and effects of the proposal and may not have encouraged and elicited comments concerning all possible regulatory alternatives. Therefore, RSPA requests substantive comments concerning those regulatory alternatives available to it with respect to classification of gases, namely—

(1) Adoption of Class 2 (poisonous gas) as proposed in the original notice;

(2) Adoption of Class 2 as proposed, but with the inclusion of special provisions that would limit application of regulatory provisions (e.g., labeling, placarding, etc.), in whole or in part, for specific materials, quantities of materials, types of operations (e.g., transportation by farmers in nurse tanks), or other considerations;

(3) Alternative classification schemes. Examples might include substantive comments on the present nonflammable gas classification or the Canadian corrosive gas classification. This latter example is raised in light of a substantial number of comments that suggested this classification as an alternative to classification of anhydrous ammonia as a poisonous gas.

With these alternatives in mind, comments are solicited addressing the following questions:

(1) Is it important to communicate the health effects of anhydrous ammonia to the public and to emergency responders?

What is the best way to communicate these effects? If symbols and words are necessary, which are appropriate and adequate to communicate so that appropriate breathing apparatus, protective clothing, and emergency response can be taken?

(2) How would each alternative impact shippers' and carriers' costs and ability to do business? How would each affect transportation safety?

(3) For alternatives involving special provisions, to what materials or categories of hazardous materials should the special provisions apply? To what quantities of materials? To what specific operations? To what types of vehicles (e.g., farm vehicles) or packagings?

Commenters are not limited to responding to the questions raised above and may submit any facts and

views consistent with the intent of this notice.

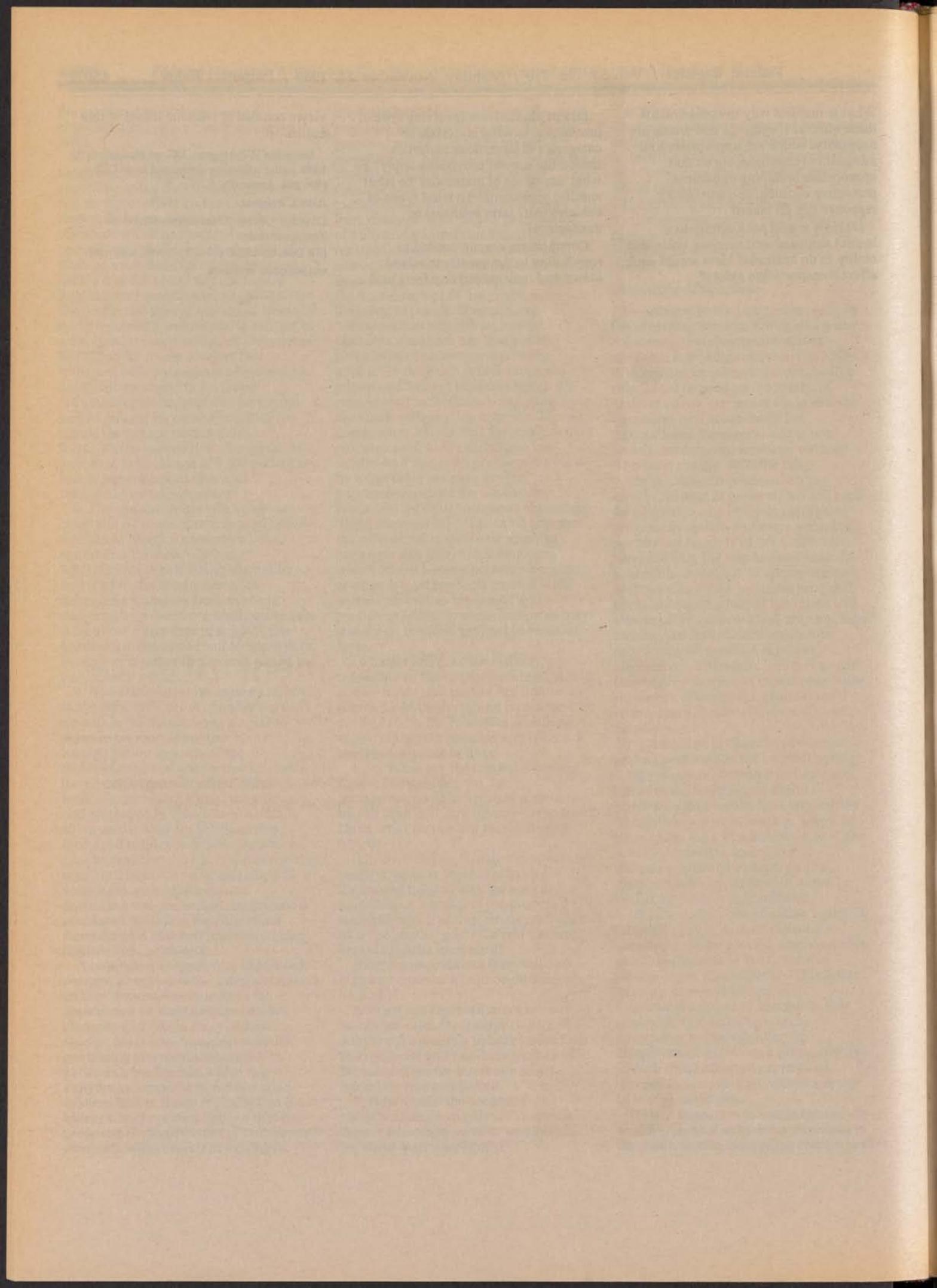
Issued in Washington, DC, on November 7, 1988, under authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 88-26206 Filed 11-10-88; 8:45 am]

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federal register

Monday
November 14, 1988

Part IV

Department of Education

34 CFR Part 280

Magnet Schools Assistance Program;
Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 280

Magnet Schools Assistance Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Magnet Schools Assistance Program (MSAP). These amendments are needed to implement changes to the Magnet Schools Assistance Act (Act) (reauthorized as Title III of the Elementary and Secondary Education Act of 1965) made by the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100-297). Most of the changes implement additions to and deletions from the statute. Included in these amendments are new selection criteria that address greater parental decisionmaking and involvement, and the applicant's capacity to continue the magnet schools program without Federal funds. In addition, special consideration is given to applicants that demonstrate a collaborative effort with institutions of higher education and community-based organizations. Amended sections of the regulations that reflect the Secretary's interpretation of provisions in Pub. L. 100-297 are explained under "Supplementary Information."

DATE: Comments must be received on or before December 29, 1988.

ADDRESS: All comments concerning these proposed regulations should be addressed to M. Patricia Goins, Acting Director, Office of School Improvement Programs, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202-6245.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Annie R. Mack, Magnet Schools Assistance Program, 400 Maryland Avenue SW. (Room 2067, FOB #6), Washington, DC 20202-6440, (202) 732-4358.

SUPPLEMENTARY INFORMATION: In accordance with section 3011(a)(3) of the Act, the Secretary amends § 280.3 to exempt grantees under the MSAP from § 75.253(c) of the Education Department General Administrative Regulations (EDGAR). This section of EDGAR requires the reduction of a grantee's award by the amount of any funds it

carries over from the previous year. In addition, a new § 280.42 has been added to the proposed regulations to implement section 3011(a)(2) of the Act, which limits to 15 percent of a local educational agency's (LEA) grant the amount of funds the LEA may carry over from one budget period to the next budget period. The House committee report indicates that this 15 percent cap is designed to encourage LEAs to spend grant funds within the year. In accordance with the statute, this limitation is waived for any year in which grants are not awarded in a timely manner.

Section 280.20 is amended by: (1) Adding a requirement that the LEA assure that it will carry out a high quality educational program that will encourage greater parental decisionmaking and involvement; and (2) adding a paragraph (g) that requires an LEA to describe in its application how assistance made available under this program will be used to promote desegregation and the manner in which the LEA will continue the magnet schools program after assistance under the MSAP is no longer available. In addition, these three factors will be evaluated through the selection criteria in § 280.31.

Section 280.31 is amended by: (1) Adding a paragraph (a)(2)(v), under "Plan of Operation," to address how assistance made available under this program will be used to promote desegregation; (2) revising paragraph (b)(2)(iv), under "Quality of key personnel," to conform to language used in EDGAR concerning nondiscriminatory employment practices; (3) revising paragraph (c)(2)(iii)(B), under "Quality of project design," to reflect the new statutory language concerning how the LEA will carry out a high quality educational program that will encourage greater parental decisionmaking and involvement; (4) and adding a paragraph (c)(2)(iv) to address the manner in which the LEA will continue the magnet schools program after assistance under the MSAP is no longer available.

Section 280.32 is amended by adding a paragraph (f) to give special consideration to applicants that demonstrate a collaborative effort with institutions of higher education and community-based organizations. Five points are added for this new selection factor.

Section 280.33 in the current regulations is redesignated as § 280.34. A new § 280.33 is proposed to explain how—in distributing funds appropriated for this program in excess of \$75

million—the Secretary will give priority to applicants that did not receive funding in the last fiscal year of the previous funding cycle. After distributing the first \$75 million appropriated for this program, the Secretary would give ten additional points to each remaining applicant that did not receive funding in the last fiscal year of the previous funding cycle. The funds in excess of \$75 million would then be distributed to the highest ranking of all of the remaining applicants.

Other changes to the program include: Deleting eligibility factors and preferences for LEAs that received \$1 million less under Chapter 2 of the Education Consolidation and Improvement Act than they did under the last year of the Emergency School Aid Act; adding definitions for "community-based organization," and "institution of higher education;" and revising new § 280.2(b) to clarify that, in addition to voluntary plans, the Secretary may approve as adequate under Title VI plans required by the Office for Civil Rights. Corrected authority citations to the United States Code are made throughout these proposed amendments to the regulations. A table of corrected authority citations for all of the sections of Part 280 will be published with the final regulations.

Executive Order 12606

These regulations will have a positive impact on the family and are consistent with the requirements of Executive Order 12606—The Family. The regulations strengthen the authority and participation of parents in the education of their children. For example, the regulations specifically require that LEAs will carry out a high quality educational program that will encourage greater parental decisionmaking and involvement.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Executive Order.

Regulatory Flexibility Act

The small entities that would be affected by these proposed regulations are small LEAs receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small LEAs affected because the regulations would impose minimal requirements to ensure

the proper expenditure of program funds and would not impose excessive regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1980

Sections 280.20, 280.31, and 280.32 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of this section to the Office of Management and Budget (OMB) for its review. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: James D. Houser.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed amendments to the regulations.

All comments submitted in response to these proposed amendments to the regulations will be available for public inspection, during and after the comment period, in Room 2067 FOB #6, 400 Maryland Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 280

Civil rights, Desegregation, Education, Education Department, Elementary and secondary education, Grant programs—education, Magnet schools.

Dated: November 4, 1988.

Lauro F. Cavazos,
Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.165, Magnet Schools Assistance Program.)

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by amending Part 280 as follows:

PART 280—MAGNET SCHOOLS ASSISTANCE PROGRAM

1. The authority citation for Part 280 is revised to read as follows:

Authority: 20 U.S.C. 3021–3032, unless otherwise noted.

2. Section 280.2 is amended by removing paragraph (a), redesignating paragraphs (b) and (c) as paragraphs (a) and (b) respectively, revising newly redesignated paragraph (b) and revising the authority for this section to read as follows:

§ 280.2 Who is eligible to apply for a grant?

(b) The LEA adopted and is implementing on either a voluntary basis or as required under Title VI of the Civil Rights Act of 1964—or, will adopt and implement if assistance is made available under this part—a plan that has been approved by the Secretary as adequate under Title VI.

(Authority: 20 U.S.C. 3022)

3. Section 280.3(a) is amended by removing "74 (Administration of grants)," adding, after "(Direct grant programs)," the following: "except that § 75.253(c) (relating to reducing a subsequent year's award by the amount remaining available from the grantee's current award) does not apply to this program." removing "and" before "79", removing the period at the end of the paragraph, and adding, in its place, "and 80 (Uniform Administrative Requirements for State and Local Governments)."

4. Section 280.4(b) is amended by adding the definitions of "Community-based organization" and "Institution of higher education" in alphabetical order to read as follows:

§ 280.4 What definitions apply to this program?

(b) * * *
"Community-based organization" means a private nonprofit organization that—

(1) Is representative of a community or a significant segment of a community; and

(2) Provides educational or related services to individuals in the community.

(Authority: 20 U.S.C. 2891(3))

"Institution of higher education" has the same meaning as in section 1201(a) of the Higher Education Act of 1965, as implemented in 34 CFR 600.4(a).

(Authority: 20 U.S.C. 2891(10))

5. Section 280.10 is amended by removing the reference "280.2(b)" in paragraph (c) and adding, in its place, "280.2(a)", and by revising paragraph (b) to read as follows:

§ 280.10 What types of projects does the Secretary assist?

(b) For the purposes of this part, an approved desegregation plan is a desegregation plan described in § 280.2 (a) or (b).

6. Section 280.20 is amended by revising paragraphs (b)(1), (b)(3), (b)(4) and (b)(5), and adding new paragraphs (b)(6) and (g) to read as follows:

§ 280.20 How does one apply for a grant?

(1) Will use funds made available under this part for the purposes specified in section 3003 of the Act;

(3) Will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

(4) Will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the mandatory assignment of students to schools or to courses of instruction within schools of the agency except to carry out the approved desegregation plan;

(5) Will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in designing or operating extracurricular activities for students; and

(6) Will carry out a high quality education program that will encourage greater parental decisionmaking and involvement.

(g) In addition to including the assurances required by this section, an LEA shall describe in its application—

(1) How assistance made available under this part will be used to promote desegregation; and

(2) The manner in which the LEA will continue the magnet schools program after assistance under this program is no longer available.

7. Section 280.31 is amended by removing "and" at the end of paragraph (a)(2)(iii), removing the period at the end of paragraph (a)(2)(iv)(D) and adding, in its place, "; and," adding paragraph (a)(2)(v), revising paragraphs (b)(2)(iv) and (c)(2)(iii)(B), and adding paragraph (g) and revising the authority citation for the section to read as follows:

§ 280.31 What selection criteria does the Secretary use?

- (a) * * *
- (2) * * *
- (v) How assistance made available under this program will be used to promote desegregation.
- (b) * * *
- (2) * * *
- (iv) How the applicant, as part of its nondiscriminatory employment practices will ensure that its personnel are selected for employment without regard to race, religion, color, national origin, sex, age, or handicap.
- (c) * * *
- (2) * * *
- (iii) * * *
- (B) Carry out a high quality education program that will encourage greater parental decisionmaking and involvement.

(g) *Commitment and capacity.* (10 points)

(1) The Secretary reviews each application for information that shows how the applicant will continue the

magnet schools program after assistance under this part is no longer available.

(2) The Secretary looks for information that shows the applicants—

- (i) Commitment to the magnet schools program; and
- (ii) Plan for gradual assumption of program costs.

(Authority: 20 U.S.C. 32021-3032)

8. Section 280.32 is amended by removing "(b) through (e)" from paragraph (a) and adding, in its place, "(b) through (f)", removing paragraphs (d)(1), (d)(2), and (d)(3) and the designation "(4)" preceding paragraph (d)(4), and by adding a new paragraph (f) to read as follows:

§ 280.32 How is special consideration given to applicants?

- (f) *Collaborative efforts.* (5 points)
The Secretary determines the degree to which the program or project for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate State educational agency, or any other private organization.

§ 280.34 [Redesignated from § 280.33]

9. Section 280.33 is redesignated as § 280.34.

10. A new § 280.33 is added to read as follows:

§ 280.33 How does the Secretary select applications for new grants with funds appropriated in excess of \$75 million?

(a) In selecting among applicants for funds appropriated for this program in excess of \$75 million, the Secretary first identifies those remaining applicants that did not receive funds under this

program in the last fiscal year of the previous funding cycle.

(b) The Secretary then awards ten additional points to each applicant identified under paragraph (a) of this section.

(Authority: 20 U.S.C. 3021(b)(2))

§ 280.40 [Amended]

11. Section 280.40(a) is amended by removing the words "expansion and" and adding, in their place, "expansion, continuation, or".

12. Section 280.42 is added to read as follows:

§ 280.42 What is the limitation on the amount of a grant an LEA may carry over into the next fiscal year?

(a) An LEA may not carry more than 15 percent of its grant award into a subsequent fiscal year.

(b) The Secretary does not apply the limitation in paragraph (a) of this section in any fiscal year where awards under the Magnet Schools Assistance Program are not made in a timely manner.

(Authority: 20 U.S.C. 3031(a)(2))

13. Section 280.50 is revised to read as follows:

§ 280.50 May a State reduce the amount of aid it gives an LEA?

No State may reduce the amount of State aid with respect to the provision of free public education or the amount of assistance received under Chapter 2 of Title I of the Elementary and Secondary Education Act of 1965, as amended, in any school district of any local education agency within the State because of assistance made available to that agency under this part.

(Authority: 20 U.S.C. 3030(c))

[FR Doc. 88-25916 Filed 11-10-88; 8:45 am]

BILLING CODE 4000-01-M

federal register

Monday
November 14, 1988

Part V

Department of Labor

Mine Safety and Health Administration

30 CFR Part 50

Notification, Investigation, Reports and Records of Accidents, Injuries, Illnesses, Employment, and Coal Production in Mines; Advance Notice of Proposed Rulemaking

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 50

Notification, Investigation, Report and Records of Accidents, Injuries, Illnesses, Employment, and Coal Production in Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Mine Safety and Health Administration (MSHA) is in the process of reviewing the regulations in 30 CFR Part 50 which set forth the requirements for mine operators to investigate mine accidents and injuries; report mine accidents, injuries, illnesses, employment, and coal production; and maintain copies of these reports. The Agency plans to review all aspects of the existing regulations and related interpretations. Comments and information pertaining to any aspect of the regulations are invited. This notice also outlines specific issues on which MSHA is seeking comment and information from the mining community concerning the need for changes to Part 50 and the impact of these changes on the mining community.

DATE: All comments and information should be submitted by January 13, 1989.

ADDRESS: Comments should be sent to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, (703) 235-1910.

SUPPLEMENTARY INFORMATION: Part 50 sets forth investigation, recordkeeping, and reporting requirements. Mine operators are required to investigate each accident and occupational injury; report each accident, occupational injury or occupational illness to MSHA; and, maintain records of each accident and investigation report. The mine operators must also submit employment and coal production data. This information is used by MSHA and the mining community to identify safety and health problems and injury trends. MSHA also uses this information to determine national fatality and injury incidence rates of the mining industry.

The American Mining Congress (AMC) and the Bituminous Coal Operators' Association (BCOA) jointly have petitioned MSHA to institute a rulemaking proceeding to revise Part 50

and conform the reporting and recordkeeping system of MSHA with that of the Occupational Safety and Health Administration (OSHA).

MSHA is closely monitoring a study of the BLS/OSHA injury and illness recordkeeping reporting system. MSHA intends to work closely with these two Agencies to assure that injury and illness recordkeeping and reporting reflect a coordinated Departmental approach.

On December 11, 1986, MSHA distributed Program Circular No. 7014: Report on 30 CFR Part 50 (Notification Investigation, Reports and Records of Accidents, Injuries, Illnesses, Employment and Coal Production in Mines), also referred to as the "Part 50 Yellow Jacket". The 1986 Yellow Jacket was an update of two earlier reports issued in 1978 and 1980 explaining the reporting requirements and addressing frequently asked questions about Part 50. On March 14, 1988, MSHA requested comments on the Yellow Jacket on such matters as definitions and explanatory material. The information provided by the commenters will be considered in preparing any proposal that may result from this ANPRM.

Specific Issues Identified for Comment

In this advance notice of proposed rulemaking, MSHA is seeking comments and information on a number of issues. Commenters should provide detailed reasons to support their respective positions based upon particular experience and circumstances. MSHA requests comments on all relevant aspects of the provisions of Part 50 and on the following issues in particular:

General

—Under what conditions and in what manner should Part 50 apply to independent contractors working on mine property?

—Should MSHA consider collecting any additional data to address mine safety and health concerns? If so, what data should MSHA consider and why?

—Are all data currently being submitted to MSHA being used as a part of your safety and health program? If not, what data are not being used and why?

—Are these current MSHA published statistics which have little use for your safety and health program, e.g. injury severity which is based on scheduled time changes, etc.? If so, what are they and give your reasons?

Definitions

Several terms used in Part 50 have been defined in this section to clarify the operators compliance responsibility.

The definitions include such terms as "accident", "occupational injury", and "occupational illness."

—How and why should any of the definitions be revised?

—What should "medical treatment" include?

—What should "first aid" constitute as distinguished from "medical treatment"?

—Should a time limit be added to the criteria for distinguishing between first aid and medical treatment injuries, if so, give specifics.

Investigations

—How could operator investigation requirements be improved and reduce the burden on the industry?

—What specific guidance, if any, should be provided on the format and content of operator investigation reports?

Reporting

—Are there ways that accident, injury, and illness data could be more effectively and efficiently gathered? If so, what alternatives should be considered for reporting and collecting this information?

—Should operators be required to report an occupational illness they are made aware of when the affected person is no longer employed at the mine? If so, under what circumstances? Give detailed rationale.

—Under what situations should an injury be considered a recurrence of a previous injury and not be reported as an injury?

—Should there be limits on the reporting of occupationally-related illnesses, e.g. "minor" or "first aid" illnesses would not be reportable? If so, how should the criteria be written?

—Would a list of recognizable illnesses and their relation to specific workplace exposure be helpful to operators in determining what illnesses are reportable? If so, give examples of such a list.

Form 7000-1 Criteria

Mine operators are required to submit to the Agency an MSHA Form 7000-1 for each accident, occupational injury, and occupational illness that occurs on mine property. Sections 50.20-1 through 50.20-7 set forth the instructions and criteria for completion and distribution of this form.

—What specific revisions to the form, terminology, and instructions should MSHA consider?

—Which criteria for processing and completing Form 7000-1 should be improved or clarified?

Verification

—What are the best means for MSHA to effectively verify compliance with Part 50 requirements?

—What types of records or information sources should MSHA check to verify compliance?

List of Subjects in 30 CFR Part 50

Reporting and recordkeeping requirements, Mine safety and health.

Date: November 8, 1988.

David C. O'Neal,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 88-26223 Filed 11-10-88; 8:45 am]

BILLING CODE 4510-43-M

Main body of the document containing several paragraphs of text, which are extremely faint and difficult to read.

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Monday, November 14, 1988

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LIST OF PUBLIC LAWS**Last List November 9, 1988**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 3614/Pub. L. 100-605

To authorize a study of the Hanford Reach of the Columbia River, and for other purposes. (Nov. 4, 1988; 102 Stat. 3043; 2 pages) Price: \$1.00

S. 1851/Pub. L. 100-606

Genocide Convention Implementation Act of 1987 (the Proxmire Act). (Nov. 4, 1988; 102 Stat. 3045; 3 pages) Price: \$1.00

S. 2889/Pub. L. 100-607

Health Omnibus Programs Extension of 1988 (Nov. 4, 1988; 102 Stat. 3048; 126 pages) Price: \$3.50

H.R. 1473/Pub. L. 100-608

To designate the building which will house the United States District Court for the Eastern District of Texas in Lufkin, Texas, as the "Ward R. Burke United States Courthouse." (Nov. 5, 1988; 102 Stat. 3174; 1 page) Price: \$1.00

H.R. 2756/Pub. L. 100-609

Granting the consent and approval of Congress to the addition of the State of Ohio as a party to the Middle Atlantic Interstate Forest Fire Protection Compact. (Nov. 5, 1988; 102 Stat. 3175; 1 page) Price: \$1.00

H.R. 4517/Pub. L. 100-610

Outer Continental Shelf Operations Indemnification Clarification Act of 1988. (Nov. 5, 1988; 102 Stat. 3176; 3 pages) Price: \$1.00

H.R. 4574/Pub. L. 100-611

To amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes. (Nov. 5, 1988; 102 Stat. 3179; 1 page) Price: \$1.00

H.R. 5104/Pub. L. 100-612

Federal Property Management Improvement Act of 1988. (Nov. 5, 1988; 102 Stat. 3180; 3 pages) Price: \$1.00

H.R. 5552/Pub. L. 100-613

To provide that the Consumer Product Safety Commission amend its regulations regarding lawn darts. (Nov. 5, 1988; 102 Stat. 3183; 1 page) Price: \$1.00

H.J. Res. 438/Pub. L. 100-614

Designating November 4, 1988, as "National Teacher Appreciation Day." (Nov. 5, 1988; 102 Stat. 3184; 1 page) Price: \$1.00

S. 1382/Pub. L. 100-615

Federal Energy Management Improvement Act of 1988. (Nov. 5, 1988; 102 Stat. 3185; 7 pages) Price: \$1.00

S. 1991/Pub. L. 100-616

Uranium Mill Tailings Remedial Action Amendments Act of 1988. (Nov. 5, 1988; 102 Stat. 3192; 2 pages) Price: \$1.00

S. 2201/Pub. L. 100-617

To extend for an additional 8-year period certain provisions of title 17, United States Code, relating to the rental of sound recordings, and for other purposes. (Nov. 5, 1988; 102 Stat. 3194; 1 page) Price: \$1.00

S. 2361/Pub. L. 100-618

Video Privacy Protection Act of 1988 (Nov. 5, 1985; 102 Stat. 3195; 3 pages) Price: \$1.00

S. 2885/Pub. L. 100-619

To amend the Hunger Prevention Act of 1988 to

make a technical correction. (Nov. 5, 1988; 102 Stat. 3198; 1 page) Price: \$1.00

S.J. Res. 261/Pub. L. 100-620

Designating the month of November 1988 as "National Alzheimer's Disease Month." (Nov. 5, 1988; 102 Stat. 3199; 1 page) Price: \$1.00

S.J. Res. 272/Pub. L. 100-621

To designate November, 1988, as "National Diabetes Month." (Nov. 5, 1988; 102 Stat. 3200; 1 page) Price: \$1.00

S.J. Res. 306/Pub. L. 100-622

Designating the day of August 7, 1989, as "National Lighthouse Day." (Nov. 5, 1988; 102 Stat. 3201; 1 page) Price: \$1.00

S.J. Res. 319/Pub. L. 100-623

To designate the period commencing November 6, 1988, and ending November 12, 1988, as "National Disabled Americans Week." (Nov. 5, 1988; 102 Stat. 3202; 2 pages) Price: \$1.00

S.J. Res. 378/Pub. L. 100-624

Designating the week of October 2 through 8, 1988, as "National Wild and Scenic Rivers Act Week." (Nov. 5, 1988; 102 Stat. 3204; 1 page) Price: \$1.00

H.R. 3146/Pub. L. 100-625

Charity Games Advertising Clarification Act of 1988. (Nov. 7, 1988; 102 Stat. 3205; 2 pages) Price: \$1.00

H.R. 4118/Pub. L. 100-626

Public Telecommunications Act of 1988. (Nov. 7, 1988; 102 Stat. 3207; 6 pages) Price: \$1.00

H.R. 4210/Pub. L. 100-627

To authorize appropriations to carry out titles II and III of the Marine Protection, Research, and Sanctuaries Act of 1972, to establish the National Oceans Policy Commission, and for other purposes. (Nov. 7, 1988; 102 Stat. 3213; 11 pages) Price: \$1.00

H.R. 4352/Pub. L. 100-628

Stewart B. McKinney Homeless Assistance Amendments Act of 1988. (Nov. 7, 1988; 102 Stat. 3224; 62 pages) Price: \$1.75

H.R. 4919/Pub. L. 100-629

To approve the governing international fishery agreement between the United States and the Union of Soviet

Socialist Republics, and for other purposes. (Nov. 7, 1988; 102 Stat. 3286; 3 pages) Price: \$1.00

H.R. 5334/Pub. L. 100-630

Handicapped Programs Technical Amendments Act of 1988. (Nov. 7, 1988; 102 Stat. 3289; 29 pages) Price: \$1.00

H.J. Res. 573/Pub. L. 100-631

To designate the week beginning November 13, 1988, as "National Craniofacial Awareness Week." (Nov. 7, 1988; 102 Stat. 3318; 1 page) Price: \$1.00

H.J. Res. 654/Pub. L. 100-632

Designating November 4 through 10, 1988, as the "Week of Remembrance of Kristallnacht." (Nov. 7, 1988; 102 Stat. 3319; 1 page) Price: \$1.00

S. 850/Pub. L. 100-633

To amend the Wild and Scenic Rivers Act to designate a segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers System. (Nov. 7, 1988; 102 Stat. 3320; 2 pages) Price: \$1.00

S.J. Res. 301/Pub. L. 100-634

Designating January 20, 1989, as "National Skiing Day." (Nov. 7, 1988; 102 Stat. 3322; 1 page) Price: \$1.00

S.J. Res. 342/Pub. L. 100-635

To designate the week of November 28 through December 5, 1988, as "National Book Week." (Nov. 7, 1988; 102 Stat. 3323; 1 page) Price: \$1.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office. New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is \$595.00 domestic, \$148.75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	\$10.00	Jan. 1, 1988
3 (1987 Compilation and Parts 100 and 101)	11.00	¹ Jan. 1, 1988
4	14.00	Jan. 1, 1988
5 Parts:		
1-699	14.00	Jan. 1, 1988
700-1199	15.00	Jan. 1, 1988
1200-End, 6 (6 Reserved)	11.00	Jan. 1, 1988
7 Parts:		
0-26	15.00	Jan. 1, 1988
27-45	11.00	Jan. 1, 1988
46-51	16.00	Jan. 1, 1988
52	23.00	Jan. 1, 1988
53-209	18.00	Jan. 1, 1988
210-299	22.00	Jan. 1, 1988
300-399	11.00	Jan. 1, 1988
400-699	17.00	Jan. 1, 1988
700-899	22.00	Jan. 1, 1988
900-999	26.00	Jan. 1, 1988
1000-1059	15.00	Jan. 1, 1988
1060-1119	12.00	Jan. 1, 1988
1120-1199	11.00	Jan. 1, 1988
1200-1499	17.00	Jan. 1, 1988
1500-1899	9.50	Jan. 1, 1988
1900-1939	11.00	Jan. 1, 1988
1940-1949	21.00	Jan. 1, 1988
1950-1999	18.00	Jan. 1, 1988
2000-End	6.50	Jan. 1, 1988
8	11.00	Jan. 1, 1988
9 Parts:		
1-199	19.00	Jan. 1, 1988
200-End	17.00	Jan. 1, 1988
10 Parts:		
0-50	18.00	Jan. 1, 1988
51-199	14.00	Jan. 1, 1988
200-399	13.00	Jan. 1, 1987
400-499	13.00	Jan. 1, 1988
500-End	24.00	Jan. 1, 1988
11	10.00	July 1, 1988
12 Parts:		
1-199	11.00	Jan. 1, 1988
200-219	10.00	Jan. 1, 1988
220-299	14.00	Jan. 1, 1988
300-499	13.00	Jan. 1, 1988
500-599	18.00	Jan. 1, 1988
600-End	12.00	Jan. 1, 1988
13	20.00	Jan. 1, 1988
14 Parts:		
1-59	21.00	Jan. 1, 1988
60-139	19.00	Jan. 1, 1988
140-199	9.50	Jan. 1, 1988

Title	Price	Revision Date
200-1199	20.00	Jan. 1, 1988
1200-End	12.00	Jan. 1, 1988
15 Parts:		
0-299	10.00	Jan. 1, 1988
300-399	20.00	Jan. 1, 1988
400-End	14.00	Jan. 1, 1988
16 Parts:		
0-149	12.00	Jan. 1, 1988
150-999	13.00	Jan. 1, 1988
1000-End	19.00	Jan. 1, 1988
17 Parts:		
1-199	14.00	Apr. 1, 1988
200-239	14.00	Apr. 1, 1988
240-End	21.00	Apr. 1, 1988
18 Parts:		
1-149	15.00	Apr. 1, 1988
150-279	12.00	Apr. 1, 1988
280-399	13.00	Apr. 1, 1988
400-End	9.00	Apr. 1, 1988
19 Parts:		
1-199	27.00	Apr. 1, 1988
200-End	5.50	Apr. 1, 1988
20 Parts:		
1-399	12.00	Apr. 1, 1988
400-499	23.00	Apr. 1, 1988
500-End	25.00	Apr. 1, 1988
21 Parts:		
1-99	12.00	Apr. 1, 1988
100-169	14.00	Apr. 1, 1988
170-199	16.00	Apr. 1, 1988
200-299	5.00	Apr. 1, 1988
300-499	26.00	Apr. 1, 1988
500-599	20.00	Apr. 1, 1988
600-799	7.50	Apr. 1, 1988
800-1299	16.00	Apr. 1, 1988
1300-End	6.00	Apr. 1, 1988
22 Parts:		
1-299	20.00	Apr. 1, 1988
300-End	13.00	Apr. 1, 1988
23	16.00	Apr. 1, 1988
24 Parts:		
0-199	15.00	Apr. 1, 1988
200-499	26.00	Apr. 1, 1988
500-699	9.50	Apr. 1, 1988
700-1699	19.00	Apr. 1, 1988
1700-End	15.00	Apr. 1, 1988
25	24.00	Apr. 1, 1988
26 Parts:		
§§ 1.0-1-1.60	13.00	Apr. 1, 1988
§§ 1.61-1.169	23.00	Apr. 1, 1988
§§ 1.170-1.300	17.00	Apr. 1, 1988
§§ 1.301-1.400	14.00	Apr. 1, 1988
§§ 1.401-1.500	24.00	Apr. 1, 1988
§§ 1.501-1.640	15.00	Apr. 1, 1988
§§ 1.641-1.850	17.00	Apr. 1, 1988
§§ 1.851-1.1000	28.00	Apr. 1, 1988
§§ 1.1001-1.1400	16.00	Apr. 1, 1988
§§ 1.1401-End	21.00	Apr. 1, 1988
2-29	19.00	Apr. 1, 1988
30-39	14.00	Apr. 1, 1988
40-49	13.00	Apr. 1, 1988
50-299	15.00	Apr. 1, 1988
300-499	15.00	Apr. 1, 1988
500-599	8.00	² Apr. 1, 1980
600-End	6.00	Apr. 1, 1988
27 Parts:		
1-199	23.00	Apr. 1, 1988
200-End	13.00	Apr. 1, 1988*
28	25.00	July 1, 1988

Title	Price	Revision Date	Title	Price	Revision Date
29 Parts:			42 Parts:		
0-99.....	17.00	July 1, 1988	1-60.....	15.00	Oct. 1, 1987
100-499.....	6.50	July 1, 1988	61-399.....	5.50	Oct. 1, 1987
500-899.....	24.00	July 1, 1987	400-429.....	21.00	Oct. 1, 1987
900-1899.....	11.00	July 1, 1988	430-End.....	14.00	Oct. 1, 1987
*1900-1910.....	29.00	July 1, 1988	43 Parts:		
1911-1925.....	8.50	July 1, 1988	1-999.....	15.00	Oct. 1, 1987
1926.....	10.00	July 1, 1987	1000-3999.....	24.00	Oct. 1, 1987
1927-End.....	23.00	July 1, 1987	4000-End.....	11.00	Oct. 1, 1987
30 Parts:			44.....	18.00	Oct. 1, 1987
0-199.....	20.00	July 1, 1988	45 Parts:		
200-699.....	8.50	July 1, 1987	1-199.....	14.00	Oct. 1, 1987
700-End.....	18.00	July 1, 1988	200-499.....	9.00	Oct. 1, 1987
31 Parts:			500-1199.....	18.00	Oct. 1, 1987
0-199.....	12.00	July 1, 1987	1200-End.....	14.00	Oct. 1, 1987
200-End.....	16.00	July 1, 1987	46 Parts:		
32 Parts:			1-40.....	13.00	Oct. 1, 1987
1-39, Vol. I.....	15.00	⁴ July 1, 1984	41-69.....	13.00	Oct. 1, 1987
1-39, Vol. II.....	19.00	⁴ July 1, 1984	70-89.....	7.00	Oct. 1, 1987
1-39, Vol. III.....	18.00	⁴ July 1, 1984	90-139.....	12.00	Oct. 1, 1987
1-189.....	20.00	July 1, 1987	140-155.....	12.00	Oct. 1, 1987
190-399.....	23.00	July 1, 1987	156-165.....	14.00	Oct. 1, 1987
400-629.....	21.00	July 1, 1987	166-199.....	13.00	Oct. 1, 1987
630-699.....	13.00	⁵ July 1, 1986	200-499.....	19.00	Oct. 1, 1987
700-799.....	15.00	July 1, 1988	500-End.....	10.00	Oct. 1, 1987
800-End.....	16.00	July 1, 1987	47 Parts:		
33 Parts:			0-19.....	17.00	Oct. 1, 1987
1-199.....	27.00	July 1, 1987	20-39.....	21.00	Oct. 1, 1987
200-End.....	19.00	July 1, 1987	40-69.....	10.00	Oct. 1, 1987
34 Parts:			70-79.....	17.00	Oct. 1, 1987
1-299.....	20.00	July 1, 1987	80-End.....	20.00	Oct. 1, 1987
300-399.....	11.00	July 1, 1987	48 Chapters:		
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35.....	9.50	July 1, 1988	1 (Parts 52-99).....	16.00	Oct. 1, 1987
36 Parts:			2 (Parts 201-251).....	17.00	Oct. 1, 1987
1-199.....	12.00	July 1, 1988	2 (Parts 252-299).....	15.00	Oct. 1, 1987
200-End.....	20.00	July 1, 1988	3-6.....	17.00	Oct. 1, 1987
37.....	13.00	July 1, 1988	7-14.....	24.00	Oct. 1, 1987
38 Parts:			15-End.....	23.00	Oct. 1, 1987
0-17.....	21.00	July 1, 1987	49 Parts:		
18-End.....	19.00	July 1, 1988	1-99.....	10.00	Oct. 1, 1987
39.....	13.00	July 1, 1988	100-177.....	25.00	Oct. 1, 1987
40 Parts:			178-199.....	19.00	Oct. 1, 1987
1-51.....	21.00	July 1, 1987	200-399.....	17.00	Oct. 1, 1987
52.....	26.00	July 1, 1987	400-999.....	22.00	Oct. 1, 1987
53-60.....	24.00	July 1, 1987	1000-1199.....	17.00	Oct. 1, 1987
61-80.....	12.00	July 1, 1988	1200-End.....	18.00	Oct. 1, 1987
81-99.....	25.00	July 1, 1987	50 Parts:		
100-149.....	23.00	July 1, 1987	1-199.....	16.00	Oct. 1, 1987
150-189.....	18.00	July 1, 1987	200-599.....	12.00	Oct. 1, 1987
190-399.....	29.00	July 1, 1987	600-End.....	14.00	Oct. 1, 1987
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¹ Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

² No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1987. The CFR volume issued January 1, 1987, should be retained.

³ No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1988. The CFR volume issued as of Apr. 1, 1980, should be retained.

⁴ The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

⁵ No amendments to this volume were promulgated during the period July 1, 1986 to June 30, 1988. The CFR volume issued as of July 1, 1986, should be retained.

⁶ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.